

**REQUEST FOR QUALIFICATIONS**  
**KEY WEST WATERSHED MANAGEMENT PLAN**

**City of Key West RFQ # 24-001**



**MAYOR: TERI JOHNSTON**

**COMMISSIONERS:**

**MARY LOU HOOVER  
SAM KAUFMAN  
CLAYTON LOPEZ**

**BILLY WARDLOW  
JIMMY WEEKLEY  
LISSETTE CAREY**



**SUBJECT:** CITY OF KEY WEST  
REQUEST FOR QUALIFICATIONS # **24-001**  
KEY WEST WATERSHED MANAGEMENT PLAN

**ISSUE DATE:** Oct 5, 2023

**MAIL OR DELIVER RESPONSES TO:**  
City Clerk  
City of Key West  
1300 White Street  
Key West, Florida 33040

**CLARIFICATION SUBMITTAL  
DEADLINE:** Oct 12, 2023, Noon

**CLARIFICATION RESPONSES DUE:** Oct 17, 2023, 3:00 PM

**VOLUNTARY PRE-SUBMITTAL MEETING:** Oct 20, 2023, 3:00 PM

**RFQ RESPONSES DEADLINE DATE:** Nov 1, 2023, 3:00 PM

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**CITY OF KEY WEST RFQ # 24-001**  
**KEY WEST WATERSHED MANAGEMENT PLAN**

**A. GENERAL**

**A.1 Purpose**

This Request for Qualifications (RFQ) is designed to provide prospective consultants with the information necessary for the preparation of competitive responses. The RFQ process is for the benefit of the City of Key West (City) and is intended to provide the City with comparative information to assist in the selection process. This RFQ is not intended to be a comprehensive list of all work and materials necessary to complete the project or supply goods and services. Each firm is responsible for determining all factors necessary for submission of a comprehensive response.

The selected firm or team shall provide services that require expertise in ICS4 hydrologic modeling, and Florida Department of Environmental Protection modeling compliance and FEMA Community Rating System compliance.

**A.2 Project Description**

A Watershed Management Plan is the prerequisite for obtaining a CRS Class 4 Rating. The City is seeking a qualified firm/multidiscipline team to develop a CRS-compliant Watershed Management Plan (WMP) to ensure the City has the data necessary to advance to a CRS Class 4 rating. The project will be funded with federal funds from the Hazard Mitigation Grant Program (HMGP), as administered by FDEM (Exhibit E, FDEM Agreement 4337-4-Po).

The City is also embarking on a Comprehensive Adaptation and Resiliency Adaptation Plan which will begin with a Vulnerability Assessment (VA). The funds for the VA are from FDEP's Resilient Florida grant program and are being used as match for this FDEM grant, but not towards this actual project. As such, modeling undertaken by the VA complies with Florida Statute, Section 380.093(3). It is highly likely that the WMP and the VA will occur simultaneously, and the VA Contractor and selected WMP contractor shall coordinate by sharing information and working concurrently to provide the City with all the essential data needed.

The City owns and maintains numerous stormwater structures including pumps, storm drains, swales, outfalls, and other stormwater management structures and has just updated its (20 year) Stormwater Management Plan. This recent stormwater modeling using ICPR4 will be made available to the chosen consultant to assist with completion of the Watershed Management Plan.

Task 1 of the WMP is to create a preliminary scope of work, initial flood modeling and submission

of a draft WMP to CRS officials for approval. Refer to the FDEM Grant Agreement, “Attachment A - Scope of Work and Budget” for specific tasks (Exhibit E).

Task 2 of the WMP is to submit the Final WMP & CRS approval. After receiving feedback and approval of Task 1 from FDEM and CRS officials, the consultant will finalize the flood modeling process and complete the WMP. Please reference the FDEM Grant Agreement, “Attachment A - Scope of Work and Budget” for specific tasks (Exhibit E).

The successful firm will have a proven track record in:

- Certified Floodplain Management expertise in the NFIP Community Rating System (CRS) program and specifically with the Sea Level Rise criteria in 452 b. Watershed Management Plan (WMP).
- GIS mapping along with extensive experience in climate change.
- Flood modeling, data collection, assessment of solutions for flood risks, creation of plans including strategy and action plans, all specific to Florida entities.
- Knowledge of water management issues in the City and vicinity areas affecting the City with respect to projected climate change impacts, such as coastal/tidal/compound flooding. Sea level rise, coastal erosion, shifting ecosystems, nutrient enrichment, elevated water table and the impacts to communities associated therewith.
- Knowledge of the Florida WMP Pilot Program, which consisted of research and the creation of guidance materials to ensure a consistent statewide approach to WMP development.
- Knowledge and experience in developing a WMP for a Florida entity and how the unique needs and characteristics of the Village of Islamorada play a role in the development of a WMP.

These services are further described in Appendix A, Section B, Sample City Contract, Scope of Work.

### **A.3 Requirements**

This project is funded with Federal dollars, specifically FEMA HMGP funding, managed by the Florida Department of Emergency Management with the purpose of creating standardized, cost-effective, and easily replicable Watershed Management Plans (WMP) throughout the state of Florida. As a result of using these funds the following State and Federal requirements must be adhered to:

#### **Grant Requirements**

1. Conflict of Interest: All firms must disclose with their bid the name of any officer, director or

agent who is also an employee of the City or any of its departments. Further, all firms must disclose the name of any City employee who owns directly or indirectly, an interest of five percent (5%) or more in the firm's entity or any of its branches or subsidiaries.

#### 1) Non-government Conflicts

- a) A firm shall not submit a response or enter into a contract with the City if the contract would result in the proposer having a conflict of interest. As used herein, the term conflict of interest shall mean:
  - i. The firm's contract with another customer or entity will be averse to the interest of the City; or
  - ii. There is a significant risk that the interest of the City will be materially impacted by the firm's responsibilities to a current customer or entity, a former customer or entity or any other third party.
  
- b) Notwithstanding the existence of a conflict of interest under paragraph (a), a firm may submit a proposal and enter into a contract with the City if:
  - i. The firm reasonably believes that they will be able to provide competent and diligent representation to each affected customer or entity and;
  - ii. The conflict of interest is not prohibited by law and;
  - iii. The proposal or contract does not involve the assertion of a claim by one customer or entity against another represented by the firm in the same project or other proceeding.

In addition, each individual participating in the selection process for professional services contracts must also disclose any conflict of interest. The Prime Consultant and subconsultant firms representing the City of Key West must be free of conflicting professional or personal interests. It is the responsibility of the consultant to recuse itself from submitting responses for a project if a conflict of interest exists. Subconsultants are responsible for disclosing potential conflicts of interest to the prime consultant firm and recusing themselves accordingly where conflict of interest exists.

- 2. Debarment and Suspension: The City of Key West may not make any award to any organization which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, "Debarment and Suspension." This applies to any Federally assisted contract at any tier in the process. To search for entity exclusions, go to: <https://sam.gov/content/home>
  
- 3. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352): Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

4. MBE/WBE: Contracting with small and minority firms, women's business enterprise and labor surplus area firms:
  - 1) The firm will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible.
  - 2) Affirmative steps shall include:
    - i) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
    - ii) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
    - iii) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;
    - iv) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises;
    - v) Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce; and
    - vi) Requiring the prime contractor, if subcontracts are to be let to take the affirmative steps listed in items (i) through (v) of this section.
  - 3) The firm will document all its affirmative steps and provide them to the City of Key West to ensure compliance.
5. Rights to Inventions Made Under a Contract or Agreement: If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

### **Compliance with State and Federal Contracting Requirements**

6. Local Preference: Local preference is not allowed.
7. Allowable Costs: A determination of allowable costs, in accordance with the Federal cost principles will be performed for services rendered under the contract.
8. Errors and Omissions: Pursuant to Section 337.015 (3), Florida Statutes, to protect the public interest, the City of Key West shall vigorously pursue claims against contractors and consultants for time overruns and substandard work products.

9. Professional Liability Insurance: Per Section 337.106, Florida Statutes, any person or firm rendering professional services shall have and maintain during the period the services are rendered a professional liability insurance policy or policies with a company or companies authorized to do business in the state affording professional liability coverage for the professional services rendered, in an amount deemed sufficient by the City of Key West. A sample of this form is in Exhibit H.
10. E-Verify: (Execute Order 11-116): Consultant:
  - 1) Shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired during the contract term; and
  - 2) Shall expressly require any subcontractors performing work or providing services pursuant to this contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.
11. Public Entity Crimes: Pursuant to the requirements of Section 287.133, Florida Statutes, pertaining to the sworn statement on Public Entity Crimes and the Convicted Vendor List, all respondents shall submit a signed and notarized statement with their proposal on the form provided in Exhibit A Affidavits.
12. Drug Free Workplace Certification: Per Federal requirements, Drug Free Workplace must not be used as a tie breaker as allowed by Section 287.087, Florida Statutes.
13. Prompt Payment: Pursuant to Section 218.74, Florida Statutes, the payment due date for a local government entity for the purchase of goods or services other than construction services is 45 days after the date specified in Section 218.73, Florida Statutes.
14. Public Records: Article 1, Section 24, Florida Constitution, guarantees every person access to all public records, and Section 119.011(12), Florida Statutes, provides a broad definition of public record. As such, all responses to a competitive solicitation are public records unless exempt by law. Any firm claiming that its response contains information that is exempt from the public records law shall clearly segregate and mark that information and provide the specific statutory citation for such exemption. Pursuant to 2 C.F.R. § 200.336, contractors must provide the sub-recipient, pass-thru entity, Federal awarding agency, Comptroller General of the United States, or any duly authorized representatives right of access to any books, documents, papers, or records which are directly pertinent to the project for the purpose of making audits, examinations, excerpts, and transcriptions.
15. Cooperation with the Inspector General: Agree to comply with s.20.055(5), Florida Statutes, and to incorporate in all subcontracts the obligation to comply with s.20.055(5), Florida Statutes.
16. Disadvantaged Business Enterprise (DBE) Reporting: DBE participation is not required and will not be used as an evaluation factor. The same applies to other program participations, such as Minority Business Enterprise (MBE) or Business Development Initiative (BDI). As stated earlier,



DBE participation is not required, but is the policy of the City of Key West that DBE's, as defined in 49 C.F.R. Part 26, as amended, shall have the opportunity to participate in the performance of work under this contract in a nondiscriminatory environment. DBE requirements of applicable Federal and state laws and regulations apply to this contract.

The City and its consultants shall take all necessary and reasonable steps and agree to ensure that DBE's have the opportunity to participate in the performance of work under this contract, in a nondiscriminatory environment.

17. Records Retention: Retention of all required records for six (6) years after final payments are made and all other pending matters are closed. Date of final payment is the date the City of Key West receives final payment from the State of Florida. Provide access to such records to those associated with the grant (OIG, FEMA, FDEM, City of Key West, etc.), at any reasonable time.
18. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended: Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
19. Unnecessary or Duplicative Items: Provide for a review of proposed procurements to avoid purchase of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.
20. Federal Excess and Surplus Property: The City encourages the use of Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.
21. Settlement of All Contractual and Administrative Issues: The City alone must be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the City of any contractual responsibilities under its contracts. The Federal awarding agency will not substitute its judgment for that of the City unless the matter is primarily a Federal concern. Violations of law will be referred to the local, state, or Federal authority having proper jurisdiction.
22. Full and Open Competition: All procurement transactions for the acquisition of property or services required under a Federal award must be conducted in a manner providing full and open competition consistent with the standards of §200.319 & §200.320.
23. Domestic Preferences for Procurements: As appropriate and to the extent consistent with law, the City, to the greatest extent practicable under a Federal award, prefers the purchase, acquisition, or

- use of goods, products, or materials produced in the United States. For the purposes of this section:
- 1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
  - 2) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.
24. Procurements of Recovered Materials: The City and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
  25. Executive Order 11246: Compliance with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60).
  26. Termination: This agreement may be terminated at any time, with or without cause, by the City upon thirty (30) days written notice to the consultant. No further work will be performed by the consultant upon receipt of this notice unless specifically authorized by the City Manager of the City of Key West. On termination, the consultant will be paid for all authorized services performed up to the termination date plus, if terminated for the convenience of the City, reasonable expenses incurred during the close-out of the agreement. The City will not pay for anticipatory profits.
  27. Administrative, Contractual or Legal Remedies for Contracts greater than \$150K: Violation of any local, state, or federal law in the performance of this contract shall constitute a material breach of this contract, which may result in the termination of this contract or other such remedy, as the City deems appropriate.
  28. Convicted Vendor List 287.133(2)(a), F.S.: check the convicted vendors list prior to making any awards to ensure that contracts greater than \$35,000 are not awarded to convicted vendors for a period of thirty-six (36) months following the date of their placement on the convicted vendors list.
  29. Discriminatory Vendor List 287.134(2)(a), F.S.: check the discriminatory vendors list prior to making any awards to ensure that contracts are not awarded to vendors on the discriminatory vendors list.
  30. Shared Services 200.318(e), F.S.: encourage entering into state and local intergovernmental agreements or inter-agency agreements where appropriate for procurement or use of common or

shared goods and services to foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal Government.

31. Quarterly Monitoring: This project will be funded in part through Hazard Mitigation Grant Program (HMGP), funds administered through the State of Florida Department of Emergency Management. The selected firm will provide quarterly documentation and reports regarding status, changes, and other details for submittal by the city to the state agencies, as stipulated by grant requirements.

## A.4 Timetable

RFQ Advertised	Oct 5, 2023
Deadline for written questions	Oct 12, 2023, Noon EST
Written questions answered	Oct 17, 2023, 3:00 PM EST
Pre-Submittal Meeting	Oct 20, 2023, 3:00 PM EST
RFQ Submittal Due Date	Nov 1, 2023, 3:00 PM EST
Selection Committee Ranking	Nov 15, 2023, 3:00 PM EST

## B. SCOPE OF SERVICES

### B.1 Overall Nature of Services

As of 2019, the City of Key West is a Class 5 level community with FEMA’s Community Rating System (CRS) with 2,874 verified points. The City needs 126 more credits and a Watershed Management Plan (WMP) to achieve a Class 4. Completing the Watershed Management Plan will both complete the prerequisite and give the City 95% of the points needed to give City residents 5% more premium reductions to their National Flood Insurance Program premiums.

The City of Key West requires the services of a qualified and experienced contractor to develop a CRS compliant Watershed Management Plan to characterize the City’s exposure and risk, build datasets and increase resiliency in the community. The City will select a contractor with a multidisciplinary team that specializes in National Flood Insurance Program (NFIP) Community Rating System (CRS), has the experience and expertise to create a Watershed Master Plan, and is able to coordinate with other professional team members and City staff to perform, facilitate, and coordinate activities as needed to complete the Plan.

### B.2 452 b. Watershed Management Plan (WMP).

The CRS requirements of the WMP prerequisite are very specific. To create a CRS compliant Watershed Management Plan in concert with the climate resilience planning effort outlined above, the following requirements must be met or exceeded by the proposed modeling approach. The modeling discussed below must be included in the final project report.

- Evaluate impact of future conditions for watershed(s) that drain into the community for multiple storm events (see storm events below) and identify natural drainage system and constructed channels.
- Evaluate the future conditions, including NOAA’s intermediate-high sea level rise projection for the year 2100 on the local drainage system during multiple rainfall events, including the 100-year rainfall event. Guidance on sea level rise projections for CRS purposes can be found within Activity 404, of the 2020 CRS Coordinators Manual

[https://www.fema.gov/sites/default/files/documents/fema\\_community-rating-system\\_coordinators-manual\\_2017.pdf](https://www.fema.gov/sites/default/files/documents/fema_community-rating-system_coordinators-manual_2017.pdf))

- Evaluate future conditions and long-duration storms, including the impacts of sea level rise and climate change.
- Identify wetlands and natural areas and address the protection of natural channels.
- Other items for additional credit in watershed management plans as feasible.

One of the foundational concepts of FEMA’s CRS program and Section 380.093, F.S. is to assess the flood risk of a community using the best available tools, data, and methodologies. The larger goal of both programs is to capture multiple types of weather-related scenarios to project and model how various flood risks would affect the community. This project approach document outlines a methodology for evaluating the potential for flood exposure through the creation of a CRS program compliant watershed management plan. The CRS Water Management Plan (WMP) modeling effort must align with Section 380.093, F.S. requirements for vulnerability assessments. The WMP and aforementioned VA will be occurring simultaneously. Thus the approach for this assessment must leverage the functionality within the best available GIS and other modeling software to:

- 1) Map potential future regular tidal inundation from sea level rise using a modified bathtub approach that accounts for local and regional tidal variability and is used by the NOAA Office for Coastal Management (<https://coast.noaa.gov/data/digitalcoast/pdf/slr-inundation-methods.pdf>),
- 2) Map potential high tide flooding based on NOAA’s Coastal High Tide Flooding methodology (<https://coast.noaa.gov/data/digitalcoast/pdf/slr-high-tide-flooding.pdf>),
- 3) Map potential storm surge events using a combination of presently available data from both NOAA and FEMA and leverage readily available software methodologies to project multiple sea-level-adjusted designed storm events (particularly the 25-, 50-, 100- and 500-year events), and
- 4) Map potential sea-level adjusted rainfall using methodologies and tools designed to model various rainfall events.

Appendix A, the Sample Contract Scope of Work, provides the expected goals and grant deliverables. The selected consultant will be familiar with this as well as all local, state and federal grant rules listed in Exhibits A, D, and E.

The competitive selection process provided for this RFQ will focus on the qualifications and prior history of performance on similar projects, in accordance with the selection criteria set forth below (and as included in Exhibit B, Submitter Ranking Scoresheet).

### B.3 Selection Criteria

The competitive selection process provided for this RFQ will focus on the qualifications and prior history of performance on similar projects of each prime firm and the members of the prime firm's proposed team, in accordance with the selection criteria set forth below and as included in Exhibit B.

<b>SELECTION CRITERIA</b>	<b>POINTS ALLOWED</b>
1. Depth of expertise in NFIP CRS Watershed Master Plans (WMP)	20
2. Depth of expertise in Flood Modeling	10
3. Depth of expertise in Water Management Issues	10
4. Depth of Expertise in WMP's for Florida entities	20
5. Familiarity with Florida Keys stormwater / climate change issues	20
6. Depth of Expertise in Florida's WMP Pilot Program	5
7. Project Approach and Timeline	10
8. Inclusion of Women- and Minority-Owned Businesses	5
<b>Total Points Possible:</b>	<b>100</b>

## C. RESPONSE INFORMATION

### C.1 Response Information

The evaluation of the RFQ will be based on a respondent's aptitude, experience and approach to tasks as identified herein by the City. Responses should be submitted to the submittal address by the date and time listed in the submission details. The City will not be responsible for submittals that are delinquent, lost, mismarked, or sent to an address other than that given above. The City reserves the right, after opening the submittal, to reject any or all responses, or to accept the response(s) that in its sole judgment is (are) in the best interest of the City. Also, the City will not be responsible for responses submitted after the specified date and time.

**A Voluntary Pre-Submittal Meeting will be held at 3:00 PM EST on October 20, 2023**, both virtually <https://cityofkeywest-fl-gov.zoom.us/j/88623457666?pwd=YmlwR2Q5c1RybEgzdUVMQ3NnTVczQT09> (Meeting ID: 886 2345 7666, Passcode 298563) or onsite at the Community Conference Room, 1<sup>st</sup> Floor, Key West City Hall 1300 White Street, Key West, Florida.

All questions from any Proposer regarding the RFQ or matters relating thereto must be submitted to Alison Higgins [ahiggins@cityofkeywest-fl.gov](mailto:ahiggins@cityofkeywest-fl.gov) via email no later than **12:00 p.m. noon on Oct 12, 2023**. Each question must identify the section number in this RFQ for which clarification is being requested. City will respond to all properly submitted questions by addendum at least five (5) business days prior to the date that the Proposals are due. All questions will be posted as an addendum at [www.cityofkeywest-fl.gov](http://www.cityofkeywest-fl.gov) and [www.DemandStar.com](http://www.DemandStar.com).

### C.2 Submission Details

1. **Submit to:**

City Clerk, City of Key West  
1300 White Street  
Key West, Florida 33040

2. **Due Date: Wednesday, November 1, 2023 NO LATER THAN 3 PM**

3. **Identification of Responses:**

Responses shall be submitted in a sealed envelope, clearly marked on the outside **“Qualifications for Key West Watershed Management Plan, RFQ # 24-001”** addressed and delivered to the City Clerk at the address and by the date and time noted above.

### **C.3 Number of Copies**

Applicants shall submit (1) one printed copy and (2) two flash drives, each with a single PDF file of the complete qualifications submittal. PDF shall be named “Firm Name RFQ # 24-001.”

### **C.4 Response Preparation Costs**

Response preparation costs are the applicant’s total responsibility.

### **C.5 Authorized Signature**

The initial response must contain the signature of a duly authorized officer or agent of the proposer’s company empowered with the right to bind the respondent to the RFQ. The respondent must provide evidence of the authority of the officer or agent to bind the respondent.

### **C.6 Property of the City**

All responses and related materials provided to the City related to this RFQ will become the property of the City of Key West.

### **C.7 License Requirements**

The selected respondent will also be required to obtain and maintain a City of Key West Business Tax Receipt for the duration of the work.

### **C.8 Post Contractual Restriction**

Paragraph Not Used

### **C.9 Insurance /Indemnification**

Refer to Appendix A, Sample Contract, Section Paragraph 7

### **C.10 Cone of Silence**

Pursuant to Section 2-773 of the City of Key West Code of Ordinances, as amended, a “Cone of Silence” shall be in effect during the course of a competitive solicitation. Cone of Silence Affidavit, attached hereto under Exhibit A.

### **C.11 Response Evaluation**

The consultant’s past performance on similar projects, approach, understanding of the project, and experience of key personnel in developing a CRS-Compliant Watershed Management Plan (WMP) will be the principal basis for evaluation. Consultant Ranking Form enclosed hereto as Exhibit B.



## **C.12 Response Selection:**

All complete and responsive submittals will be evaluated by a City Manager appointed selection team at a publicly noticed meeting. The City of Key West reserves the right to ask questions, seek clarification of any or all Proposers as part of its evaluation. Evaluation and ranking will be accomplished using the Consultant Ranking Form (Exhibit B). Each short-listed respondent may be required to make a presentation of no more than 10 minutes to the City Commission; the exact length of the presentation is up to the discretion of the Commission. A final award will be made by the City Commission, based solely on that response which, in their opinion, is in the best interest of the City of Key West, all factors considered, irrespective of the City Manager appointed selection team ranking.

A final contract, including a detailed scope and fee, must be negotiated by the City Manager and approved by the City Commission. The City reserves the right, without qualification, to exercise discretion and apply its judgment with respect to any responses submitted, as well as to reject all responses.

## **C.13 Response Content:**

The City requires the Proposer to submit a concise response clearly addressing all the requirements outlined in this RFQ. Responses must include, at a minimum, the following sections in the order indicated.

1. *Cover Letter* – No more than one page
2. *Information Page* – Include project name, name of vendor (prime) submitting the response, contact information for the person who will act as project manager and contact information for the person who has authority to make representations for the firm, including name, title, address, telephone and fax numbers and email addresses.
3. *Organization Chart* – Show prime consultant, sub-consultants, key personnel, areas of responsibility and location of personnel.
4. *Company Information* – Background information about the vendor and each subcontractor and the services each provides.
5. *Methodology, Approach and Timeline* – Descriptions which enable the City to assess the proposer's capability to perform requested services in a structured and efficient manner.
6. *Personnel* – Resumes of the principals(s) assigned to the project and staff personnel, and/or subcontractors available to support the proposed efforts.
7. *Qualifications* – Description of relevant experience for the firm and each subcontractor connected with providing similar project work. Experience of team members working successfully together on other similar projects should be included.

8. *Representative Watershed Master Plans and Client References* – Submit descriptions of similar assignments which were conducted by the consultant, including other agency/client's contact name and telephone number.
9. *Sworn Statements and Affidavits* – The Consultant shall have signed and returned all forms attached herein as Exhibit A (Anti-Kickback, Non-Collusion, Public Entity Crimes, Equal Benefits for Domestic Partners, Code of Silence, Indemnification, Suspension and Disbarment, Disclosure of Lobbying Activities, Prohibited Interests Form and Notice, Vendor Certification regarding Scrutinized Companies Lists, Example of Liability Insurance, Additional Insured).

**Total proposal length (not including required forms, Sworn Statements, or Affidavits) will not exceed 15 double (30 single) side pages.**

**Exhibit A: Affidavits**

**ANTI-KICKBACK AFFIDAVIT**

STATE OF FLORIDA

SS:

COUNTY OF MONROE

I the undersigned hereby duly sworn, depose and say that no portion of the sum herein response will be paid to any employee of the City of Key West as a commission, kickback, reward or gift, directly or indirectly by me or any member of my firm or by an officer of the corporation.

BY: \_\_\_\_\_

sworn and prescribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 2023

NOTARY PUBLIC, State of Florida

My commission expires:



**SWORN STATEMENT PURSUANT TO SECTION 287.133(3)(A)**  
**FLORIDA STATUTES, ON PUBLIC ENTITY CRIMES**

THIS FORM MUST BE SIGNED AND SWORN TO IN THE PRESENCE OF A NOTARY  
PUBLIC OR OTHER OFFICIAL AUTHORIZED TO ADMINISTER OATHS,

1. This sworn statement is submitted with Bid or Proposal for RFQ #22-001
2. This sworn statement is submitted by: \_\_\_\_\_  
(Name of entity submitting sworn statement)  
whose business address is: \_\_\_\_\_  
  
and (if applicable) its Federal Employer Identification Number (FEIN) is: \_\_\_\_\_  
(if the entity has no FEIN, include the Social Security Number of the individual signing this sworn statement): \_\_\_\_\_
3. My name is \_\_\_\_\_  
  
and my relationship to the entity above is \_\_\_\_\_
4. I understand that a "public entity crime" as defined in Paragraph 287.133(1)(g), Florida Statutes, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or of the United States, including, but not limited to, any bid or contract for goods or services to be provided to any public entity or an agency or political subdivision of any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.
5. I understand that "convicted" or "conviction" as defined in Paragraph 287.133(1)(g), Florida Statutes, means a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere.
6. I understand that an "affiliate" as defined in Paragraph 287.133(1)(a), Florida Statutes, means:
  - 1) A predecessor or successor of a person convicted of a public entity crime: or
  - 2) An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members and agent who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in another person, or a pooling of equipment of income among persons when not for fair

market value under an arm's length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.

- 7. I understand that a "person" as defined in Paragraph 287.133(1)(e), Florida Statute means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bid on contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an entity.
- 8. Based on information and belief, the statement which I have marked below is true in relation to the entity submitting this sworn statement (indicate which statement applies).

\_\_\_\_\_ Neither the entity submitting this sworn statement, nor any officers, directors, executives, partners, shareholders, employees, members, or agents who are active in management of the entity, nor any affiliate of the entity have been charged with and convicted of a public entity crime subsequent to July 1, 1989, AND (Please indicate which additional statement applies.)

\_\_\_\_\_ There has been a proceeding concerning the conviction before a hearing of the State of Florida, Division of Administrative Hearings. The final order entered by the hearing officer did not place the person or affiliate on the convicted vendor list. (Please attach a copy of the final order.)

\_\_\_\_\_ The person or affiliate was placed on the convicted vendor list. There has been a subsequent proceeding before a hearing officer of the State of Florida, Division of Administrative Hearings. The final order entered by the hearing officer determined that it was in the public interest to remove the person or affiliate from the convicted vendor list. (Please attach a copy of the final order.)

\_\_\_\_\_ The person or affiliate has not been put on the convicted vendor list. (Please describe any action taken by or pending with the Department of General Services.)

\_\_\_\_\_  
(SIGNATURE)

\_\_\_\_\_  
(DATE)

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

PERSONALLY APPEARED BEFORE ME, the undersigned authority \_\_\_\_\_  
who, after first being sworn by me, affixed his/her signature in the space provided above on this  
\_\_ day of \_\_\_\_\_, 2023

My commission expires:

\_\_\_\_\_ NOTARY PUBLIC







- (2) *Cone of silence* means a period of time during which there is a prohibition on communication regarding a particular competitive solicitation.
  - (3) *Evaluation or selection committee* means a group of persons appointed or designated by the city to evaluate, rank, select, or make a recommendation regarding a vendor or the vendor's response to the competitive solicitation. A member of such a committee shall be deemed a city official for the purposes of subsection (c) below.
  - (4) *Vendor* means a person or entity that has entered into or that desires to enter into a contract with the City of Key West or that seeks an award from the city to provide goods, perform a service, render an opinion or advice, or make a recommendation related to a competitive solicitation for compensation or other consideration.
  - (5) *Vendor's representative* means an owner, individual, employee, partner, officer, or member of the board of directors of a vendor, or a consultant, lobbyist, or actual or potential subcontractor or sub-consultant who acts at the behest of a vendor in communicating regarding a competitive solicitation.
- (b) *Prohibited communications.* A cone of silence shall be in effect during the course of a competitive solicitation and prohibit:
- (1) Any communication regarding a particular competitive solicitation between a potential vendor or vendor's representative and the city's administrative staff including, but not limited to, the city manager and his or her staff;
  - (2) Any communication regarding a particular competitive solicitation between a potential vendor or vendor's representative and the mayor, city commissioners, or their respective staff;
  - (3) Any communication regarding a particular competitive solicitation between a potential vendor or vendor's representative and any member of a city evaluation and/or selection committee therefore; and
  - (4) Any communication regarding a particular competitive solicitation between the mayor, City commissioners, or their respective staff, and a member of a city evaluation and/or selection committee therefore.
- (c) *Permitted communications.* Notwithstanding the foregoing, nothing contained herein shall prohibit:
- (1) Communication between members of the public who are not vendors or a vendor's representative and any city employee, official or member of the city commission;
  - (2) Communications in writing at any time with any city employee, official or member of the city commission, unless specifically prohibited by the applicable competitive solicitation.
    - (A) However, any written communication must be filed with the city clerk. Any city employee, official or member of the city commission receiving or making any written communication must immediately file it with the city clerk.
    - (B) The city clerk shall include all written communication as part of the agenda item when publishing information related to a particular competitive solicitation;
  - (3) Oral communications at duly noticed pre-bid conferences;
  - (4) Oral presentations before publicly noticed evaluation and/or selection committees;
  - (5) Contract discussions during any duly noticed public meeting;
  - (6) Public presentations made to the city commission or advisory body thereof during any duly noticed public meeting;

- (7) Contract negotiations with city staff following the award of a competitive solicitation by the city commission; or
- (8) Purchases exempt from the competitive process pursuant to section 2-797 of these Code of Ordinances;

(d) *Procedure.*

- (1) The cone of silence shall be imposed upon each competitive solicitation at the time of public notice of such solicitation as provided by section 2-826 of this Code. Public notice of the cone of silence shall be included in the notice of the competitive solicitation. The city manager shall issue a written notice of the release of each competitive solicitation to the affected departments, with a copy thereof to each commission member, and shall include in any public solicitation for goods and services a statement disclosing the requirements of this ordinance.
- (2) The cone of silence shall terminate at the time the city commission or other authorized body makes final award or gives final approval of a contract, rejects all bids or responses to the competitive solicitation or takes other action which ends the competitive solicitation.
- (3) Any city employee, official or member of the city commission that is approached concerning a competitive solicitation while the cone of silence is in effect shall notify such individual of the prohibitions contained in this section. While the cone of silence is in effect, any city employee, official or member of the city commission who is the recipient of any oral communication by a potential vendor or vendor's representative in violation of this section shall create a written record of the event. The record shall indicate the date of such communication, the persons with whom such communication occurred, and a general summation of the communication.

(e) *Violations/penalties and procedures.*

- (1) A sworn complaint alleging a violation of this ordinance may be filed with the city attorney's office. In each such instance, an initial investigation shall be performed to determine the existence of a violation. If a violation is found to exist, the penalties and process shall be as provided in section 1-15 of this Code.
- (2) In addition to the penalties described herein and otherwise provided by law, a violation of this ordinance shall render the competitive solicitation void at the discretion of the city commission.
- (3) Any person who violates a provision of this section shall be prohibited from serving on a City of Key West advisory board, evaluation and/or selection committee.
- (4) In addition to any other penalty provided by law, violation of any provision of this ordinance by a City of Key West employee shall subject said employee to disciplinary action up to and including dismissal.
- (5) If a vendor is determined to have violated the provisions of this section on two more occasions it shall constitute evidence under City Code section 2- 834 that the vendor is not properly qualified to carry out the obligations or to complete the work contemplated by any new competitive solicitation. The city's purchasing agent shall also commence any available debarment from city work proceeding that may be available upon a finding of two or more violations by a vendor of this section. (Ord. No. 13-11, § 1, 6-18-2013)

## **CITY OF KEY WEST INDEMNIFICATION FORM**

PROPOSER agrees to protect, defend, indemnify, save and hold harmless The City of Key West, all its Departments, Agencies, Boards, Commissions, officers, City's Consultant, agents, servants and employees, including volunteers, from and against any and all claims, debts, demands, expense and liability arising out of injury or death to any person or the damage, loss of destruction of any property which may occur or in any way grow out of any act or omission of the PROPOSER, its agents, servants, and employees, or any and all costs, expense and/or attorney fees incurred by the City as a result of any claim, demands, and/or causes of action except of those claims, demands, and/or causes of action arising out of the negligence of The City of Key West, all its Departments, Agencies, Boards, Commissions, officers, agents, servants and employees. The PROPOSER agrees to investigate, handle, respond to, provide defense for and defend any such claims, demand, or suit at its sole expense and agrees to bear all other costs and expenses related thereto, even if it (claims, etc.) is groundless, false or fraudulent. The City of Key West does not waive any of its sovereign immunity rights, including but not limited to, those expressed in Section 768.28, Florida Statutes. Nothing contained herein shall be construed to alter or waive the City's sovereign immunity under 768.28, Florida Statutes. PROPOSER understands and agrees that any and all liabilities regarding the use of any subcontractor for services related to this agreement shall be borne solely by the PROPOSER. Ten dollars of the consideration paid by the City is acknowledged by PROPOSER as separate, good and sufficient consideration for this indemnification.

This indemnification shall be interpreted to comply with Section 725.06 and 725.08, Florida Statutes.

These indemnifications shall survive the term of this agreement. In the event that any action or proceeding is brought against the City of Key West by reason of such claim or demand, PROPOSER shall, upon written notice from the City of Key West, resist and defend such action or proceeding by counsel satisfactory to the City of Key West.

The indemnification provided above shall obligate PROPOSER to defend at its own expense to and through appellate, supplemental or bankruptcy proceeding, or to provide for such defense, at the City of Key West's option, any and all claims of liability and all suits and actions of every name and description covered above which may be brought against the City of Key West whether performed by PROPOSER, or persons employed or utilized by PROPOSER. The PROPOSER'S obligation to indemnify, defend and pay for the defense of the CITY, or at the CITY's option, to participate and associate with the PROPOSER in the defense and trial of any claim and any related settlement negotiations, shall be triggered immediately upon the PROPOSER'S receipt of the CITY'S notice of claim for indemnification. The notice of claim for indemnification shall be deemed received if the CITY sends the notice in accordance with the formal notice mailing requirements set forth in this AGREEMENT.

The PROPOSER'S evaluation of liability or its inability to evaluate liability shall not excuse the PROPOSER'S duty to defend and indemnify the CITY under the provisions of this AGREEMENT. Only an adjudication or judgment, after the highest appeal is exhausted, specifically finding the CITY was solely negligent shall excuse performance of this provision by the PROPOSER.

The PROPOSER'S obligation under this provision shall not be limited in any way by the agreed upon Contract Price as shown in this agreement, or the PROPOSER's limit of or lack of sufficient insurance protection. This indemnification shall continue beyond the date of completion of the work

COMPANY SEAL

PROPOSER:

\_\_\_\_\_

Address

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Signature

\_\_\_\_\_

\_\_\_\_\_

Print Name

Date

\_\_\_\_\_

Title

NOTARY FOR THE PROPOSER

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_ day of \_\_\_\_\_, 2023.

By \_\_\_\_\_, of \_\_\_\_\_  
(Name of officer or agent, title of officer or agent) (Name of corporation acknowledging)

or has produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Signature of Notary Public-State of Florida

\_\_\_\_\_  
Print, Type or Stamp Name of Notary

## SUSPENSION AND DEBARMENT CERTIFICATION

### CERTIFICATION REGARDING DEBARMENTS, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION - LOWER TIER FEDERALLY FUNDED TRANSACTIONS

1. The undersigned hereby certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
2. The undersigned also certifies that it and its principals:
  - a. Have not within a three-year period preceding this certification been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - b. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 2.(a.) of this Certification; and
  - c. Have not within a three-year period preceding this certification had one or more public transactions (Federal, State or local) terminated for cause or default.
3. Where the undersigned is unable to certify to any of the statements in this certification, an explanation shall be attached to this certification.

#### **Subcontractor Covered Transactions**

The prospective subcontractor, \_\_\_\_\_, of the Sub-Recipient certifies, by submission of this document, that neither it, its principals, nor affiliates are presently debarred, suspended, proposed for debarment, declared ineligible, voluntarily excluded, or disqualified from participation in this transaction by any Federal department or agency.

#### **SUBCONTRACTOR**

\_\_\_\_\_  
By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Name and Title

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State, Zip

\_\_\_\_\_  
Date

**City of Key West**  
Sub-Recipient's Name

**H0866**  
DEM Contract Number

**4337-4-Po**  
FEMA Project Number

## DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352

<b>1. Type of Federal Action:</b>  a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	<b>2. Status of Federal Action:</b>  a. bid/offer/application b. initial award c. post-award	<b>3. Report Type:</b>  a. initial filing b. material change  <b>For Material Change Only:</b>  year _____ quarter _____ date of last report _____
<b>4. Name and Address of Reporting Entity:</b>  Prime                      Subawardee Tier _____, <i>if known:</i>   Congressional District, <i>if known:</i>		<b>5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:</b>     Congressional District, <i>if known:</i>
<b>6. Federal Department/Agency:</b>	<b>7. Federal Program Name/Description:</b>  CFDA Number, <i>if applicable:</i> _____	
<b>8. Federal Action Number, if known:</b>	<b>9. Award Amount, if known:</b>  \$	
<b>10. a. Name and Address of Lobbying Entity</b> <i>(if individual, last name, first name, MI):</i>    (attach Continuation Sheet(s)		<b>b. Individuals Performing Services</b> <i>(including address if different from No. 10a)</i> <i>(last name, first name, MI):</i>    SF-LLL, <i>if necessary</i> )
<b>11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.</b>		Signature: _____  Print Name: _____  Title: _____  Telephone No.: _____ Date: _____
<b>Federal Use Only:</b>		Authorized for Local Reproduction Standard Form - LLL (Rev 7 - 97)

Form DEP 55-221 (01/01)

INSTRUCTIONS FOR COMPLETION OF SELF-DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether sub-awardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action.

Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by the reporting entity for this covered Federal action.
4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks “Subawardee”, then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., “RFP-DE-90-001.”
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.  
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. The certifying official shall sign and date the form, print his/her name, title and telephone number.



According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503.

Form DEP 55-221 (01/01)

**PROHIBITED INTERESTS FORM AND NOTICE**

I, \_\_\_\_\_, \_\_\_\_\_, certify that neither  
(Printed Name) (Title)  
\_\_\_\_\_, \_\_\_\_\_  
(Company Name) (Company Address)

nor any of its subcontractors shall enter into any contract, subcontract or arrangement in connection with the project or any property included or planned to be included in the project in which any member, officer or employee of the agency or the locality during tenure or for 2 years thereafter has any interest, direct or indirect. If any such present or former member, officer or employee involuntarily acquires or had acquired prior to the beginning of tenure any such interest, and if such interests is immediately disclosed to the City of Key West, the City of Key West with prior approval of the Florida Division of Emergency Management, may waive the prohibition contained in this paragraph provided that any such present member, officer or employee shall not participate in any action by the City of Key West or the locality relating to such contract, subcontract or arrangement.

NOTICE: The state requires the City of Key West to insert in all contracts entered into in connection with the project or any property included or planned to be included in any project, and shall require its contractors to insert in each of their subcontracts, the following provision:

“No member, officer or employee of the Agency or of the locality during this tenure or for 2 years thereafter shall have any interest, direct or indirect, in this contract or the proceeds thereof.”

The provisions of this paragraph shall not be applicable to any agreement between the Agency and its fiscal depositories or to any agreement for utility services the rates for which are fixed or controlled by a government agency.

\_\_\_\_\_  
Signature

**VENDOR CERTIFICATION REGARDING  
SCRUTINIZED COMPANIES LISTS**

Respondent Vendor Name: _____		
Vendor FEIN: _____		
Vendor's Authorized Representative Name and Title: _____		
Address: _____		
City: _____	State: _____	Zip: _____
Phone Number: _____		
Email: _____		

**Section 287.135(2)(a)**, Florida Statutes, prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a contract for goods or services of any amount if, at the time of contracting or renewal, the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to section 215.4725, Florida Statutes, or is engaged in a boycott of Israel. Section 287.135(2)(b) , Florida Statutes, further prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a contract for goods or services over one million dollars (\$1,000,000) if, at the time of contracting or renewal, the company is on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, both created pursuant to section 215.473, Florida Statutes, or the company is engaged in business operations in Cuba or Syria.

As the person authorized to sign on behalf of Respondent, I hereby certify that the company identified above in the section entitled "Respondent Vendor Name" is not listed on either the Scrutinized Companies that Boycott Israel List, Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List. I understand that pursuant to section 287.135, Florida Statutes, the submission of a false certification may subject such company to civil penalties, attorney's fees, and/or costs and termination of the contract at the option of the awarding governmental agency

Certified By: _____	
<i>Print Name</i>	<i>Print Title</i>
who is authorized to sign on behalf of the above referenced company.	
Authorized Signature: _____	

## Exhibit B: Consultant Ranking Form

Project Name: **Key West Watershed Master Plan**

Project Number: RFQ # **24-001**

Total Possible Score: 100

Scoring Subject	Range of possible scores per criterion	Score assigned	Score Definitions
<b>#1) Depth of expertise in CRS-Compliant Watershed Management Plans (WMP)</b>	0-20		
Acceptable	8-10		Staff have some directly related experience and firm has completed at least one CRS compliant WMP in the US.
Advantageous	11-15		At least one staff is Floodplain Certified and has significant experience in related work. Firm has completed some CRS compliant WMPs.
Highly advantageous	16-20		Multiple staff are Floodplain Certified and highly experienced in complex CRS compliant WMP's. Firm has a significant track record of highly successful work completing CRS compliant WMPs.
<b>Criterion score</b>			
<b>#2) Depth of expertise in Flood modeling</b>	0-10		
Acceptable	5 or 6		Staff have peripheral roles or limited experience with flood modeling. Response includes limited examples of successfully completed flood modeling projects.
Advantageous	7 or 8		Staff have notable experience with flood modeling. Response includes multiple successfully completed flood modeling projects.
Highly advantageous	9 or 10		Staff have extensive experience related to flood modeling. Firm has demonstrated involvement in multiple large scale or complex flood modeling projects.
<b>Criterion score</b>			

<b>#3) Depth of Expertise in Water Management Issues</b>	0-10		Includes coastal/tidal/compound flooding, sea level rise, coastal erosion, shifting ecosystems, nutrient enrichment, and elevated water tables.
Acceptable	5 or 6		Staff have some directly related experience with water management issues. Response includes examples of simple or traditional water management projects.
Advantageous	7 or 8		Staff have significant experience in most water management issues. Response includes examples of multi-issue water management projects.
Highly advantageous	9 or 10		Consultant Team evidenced high proficiency in all water management issues. Firm has significant track record of highly successful complex water management projects.

**Criterion score**

<b>#4) Depth of expertise in developing a WMP for a Florida Entity</b>	0-20		
Acceptable	8-10		Consultants have developed Watershed Master Plans for other entities not in Florida
Advantageous	11-15		Consultants have developed Watershed Master Plans for at least one other entity in Florida
Highly advantageous	16-20		Consultants have developed at least two Watershed Master Plans for other entities in Florida

**Criterion score**

<b>#5) Familiarity with Florida Keys stormwater / climate change issues</b>	0-20		
Acceptable	8-10		Consultants have not worked with any Florida Keys entities on stormwater or climate change issues.
Advantageous	11-15		Consultants have worked with at least one Florida Keys entities on stormwater or climate change issues.

Highly advantageous	16-20		Consultant team has worked with more than one Florida keys entity on stormwater or climate change issues.
---------------------	-------	--	---

**Criterion score**

<b>#6) Depth of expertise in Florida’s WMP Pilot Program</b>	0-5		
Acceptable	0		Staff have peripheral roles or limited experience with Pilot Program. Response did not evidence examples of expertise in Florida’s WMP Pilot Program
Advantageous	3		Staff have some notable experience in Pilot Program. Response evidenced some expertise in Florida’s WMP Pilot Program
Highly advantageous	5		Staff have extensive experience with Pilot Program. Response evidenced expertise and participated in Florida’s WMP Pilot Program

**Criterion score**

<b>#7) Project Approach and Timeline</b>	0-10		
Acceptable	5 or 6		Approach is basic, timeline is suitable to deadline. Supplied reference letters support this.
Advantageous	7 or 8		Approach has some value added components and still meets deadline. Supplied reference letters support this.
Highly advantageous	9 or 10		Approach is highly dynamic and progressive and still meets deadline. Supplied reference letters support this.

**Criterion score**

<b>#8) Inclusion of Women and Minority Owned Businesses (W/MBE)</b>	5		
---	---	--	--

Acceptable	0	The firm was unable to identify a W/MBE as part of their team.
Advantageous	3	The firm identified at least one W/MBE as part of their team.
Highly advantageous	5	The firm identified more than one W/MBE as part of their team.
<b>Criterion score</b>		

**Total firm score**

**Appendix A - SAMPLE CONTRACT**

(subject to negotiation)

**THE FOLLOWING AGREEMENT IS A DRAFT AGREEMENT AND SHOULD NOT BE FILLED OUT AS PART OF THE SUBMISSION PACKAGE. FINAL AGREEMENT WILL BE IN SUBSTANTIAL CONFORMANCE WITH THE ATTACHED**



**AGREEMENT**

**between**

**CITY OF KEY WEST**

**and**

---

**for**

**PROFESSIONAL SERVICES FOR  
KEY WEST WATERSHED MANAGEMENT PLAN**

**KEY WEST, FLORIDA**

This is an Agreement between: CITY OF KEY WEST, its successors and assigns, hereinafter referred to as "CITY," and \_\_\_\_\_, a corporation organized under the laws of the State of \_\_\_\_\_, its successors and assigns, hereinafter referred to as "CONSULTANT".

WITNESSETH, in consideration of the mutual terms and conditions, promises, covenants and payments hereinafter set forth, CITY and CONSULTANT agree as follows:

## **ARTICLE 1**

### **DEFINITIONS AND IDENTIFICATIONS**

For the purposes of this Agreement and the various covenants, conditions, terms and provisions which follow, the definitions and identifications set forth below are assumed to be true and correct and are agreed upon by the parties.

- 1.1. Agreement:** This document, Articles 1 through 7, inclusive. Other terms and conditions are included in the CITY's RFQ# 24-001, CONSULTANT's Response to RFQ dated \_\_\_\_\_, 2023, exhibits, Task Orders, and supplemental documents that are by this provision expressly incorporated herein by reference.
- 1.2. Commissioners:** Members of the City Commission with all legislative powers of the CITY vested therein.
- 1.3. CONSULTANT:** The firm selected to perform the services pursuant to this Agreement.
- 1.4. Contract Administrator:** The ranking managerial employee of the CITY or some other employee expressly designated as Contract Administrator by the City Manager, who is the representative of the CITY. In the administration of this Agreement, as contrasted with matters of policy, all parties may rely upon instructions or determinations made by the Contract Administrator; provided, however, that such instructions and determinations do not change the Scope of Services.
- 1.5. Contractor:** The person, firm, corporation or other entity that enters into an agreement with CITY to perform the construction work for the Task Order.
- 1.6. CITY:** City of Key West.
- 1.7. Task Order:** A detailed description of a particular service or services to be performed by CONSULTANT under this Agreement.

## **ARTICLE 2**

### **PREAMBLE**

In order to establish the background, context and frame of reference for this Agreement and generally to express the objectives and intentions of the respective parties hereto, the following statements, representations and explanations shall be accepted as predicates for the undertakings and commitments included within the provisions which follow and may be relied upon by the parties as essential elements of the mutual considerations upon which this Agreement is based.

- 2.1. The CONSULTANT is not entitled to receive, and the CITY is not obligated to pay, any fees or expenses in excess of the amount budgeted for Task Orders authorized under this Agreement in each fiscal year (October 1-September 30) by CITY. The budgeted amount may only be modified per City Ordinance(s).
- 2.2. The CITY has met the requirements of the Consultants' Competitive Negotiation Act, as set forth in Section 287.055, Florida Statutes, and has selected CONSULTANT to perform the services hereunder based on the Request for Qualifications # 22-001 incorporated by reference and made a part hereof and the Response to the Request for Qualifications from Consultant dated \_\_\_\_\_, 2023, incorporated by reference and made part of.
- 2.3. Negotiations pertaining to the services to be performed by CONSULTANT were undertaken between CONSULTANT and staff selected by the Commission, and this Agreement incorporates the results of such negotiations.
- 2.4. This project is funded with Federal dollars, specifically FEMA Hazard Mitigation Grant Program (HMGP), as administered by the Florida Department of Emergency Management. The CONSULTANT shall ensure that all of its activities under this Contract shall be conducted in conformance with these provisions, as applicable: 45 CFR Part 75, 29 CFR Part 95, 2 CFR Part 200, 20CFR Part 570 subpart I, et seq., and all other applicable federal laws, regulations and policies governing the funds provided as now in effect and as may be amended from time to time.

## **ARTICLE 3**

### **SCOPE OF SERVICES AND STANDARD OF CARE**

- 3.1. CONSULTANT's services may include but are not limited to the following in regard to the Agreement:
- 3.2. CONSULTANT's services shall include all terms and conditions, tasks, schedule and deliverables included in the Division Of Emergency Management Mitigation Bureau federally-funded subaward and grant agreement #HO866, Project #4337-4-Po for \$184,818.75 as shown in Exhibit E, and any other lawful professional services that the CONSULTANT is qualified to provide, and that the CITY authorizes the CONSULTANT to undertake in connection with this Agreement. CONSULTANT shall provide all necessary, incidental and related activities and services as required.
- 3.3. CONSULTANT and CITY acknowledge that the Scope of Services does not delineate every detail and minor work task required to be performed by CONSULTANT to complete any particular task order. If, during the course of the performance of the services included in this Agreement, CONSULTANT determines that work should be performed to complete the Task Order which is, in the CONSULTANT's opinion, outside the level of effort originally anticipated, whether or not the Scope of Services identifies the work items, CONSULTANT shall notify Contract Administrator in writing in a timely manner before proceeding with the work. If CONSULTANT proceeds with such work without notifying the Contract Administrator, the work shall be deemed to be within the original level of effort, whether or not specifically addressed in the Scope of Services. Notice to Contract Administrator does not constitute authorization or approval by CITY to perform the work. Performance of work by CONSULTANT outside the originally anticipated level of effort without prior written CITY approval or modification of Task Order is at CONSULTANT's sole risk.
- 3.4. The specific services to be provided by the CONSULTANT and the compensation for such services shall be as mutually agreed to in separate Task Orders to this AGREEMENT. Each Task Order when fully executed shall become a supplement to and a part of this AGREEMENT.
  - 3.4.1. Each Task Order shall be supported by appropriate cost and pricing data and such other documentation as required by the CITY.
  - 3.4.2. Task Orders shall be numbered consecutively as specified by CITY. Each Task Order shall include a description of the scope of services and specified deliverables, time of completion, total estimated costs of services, and method of compensation. Additional information shall be provided to the CITY if required. Amended Task Orders shall include substantially the same information and be submitted to the CITY for approval.
  - 3.4.3. The CITY may make or approve changes within the general Scope of Services in any Task Order. If such changes affect the CONSULTANT's cost of or time required for performance of the services, an equitable adjustment shall be made through an amendment to the Task Order.

- 3.4.4. A Task Order may be terminated at any time, with or without cause, by the CITY upon written notice to CONSULTANT. CONSULTANT shall perform no further work upon receipt of this notice unless specifically authorized by the City Manager of the City of Key West. On termination, the CONSULTANT shall be paid for all authorized services performed up to the termination date plus, if terminated for the convenience of the CITY, reasonable expenses incurred during the close-out of the Task Order. The CITY shall not pay for anticipatory profits. The termination of this Agreement pursuant to Paragraph 7.2, hereof, shall constitute the termination of any and all outstanding Task Orders.
- 3.4.5 The CONSULTANT shall begin services under any Task Order when authorized by a Purchase Order issued by the CITY and delivered to CONSULTANT.
- 3.4.6. The CITY and CONSULTANT may negotiate additional scopes of services, compensation, time of performance, and other related matters for each Task Order, as allowed by this Agreement. If CITY and CONSULTANT cannot contractually agree, CITY shall have the right to immediately terminate negotiations at no cost to CITY and procure services from another source.
- 3.4.7. CONSULTANT shall perform the professional services under this Agreement at the level customary for competent and prudent professionals in CONSULTANT's field performing such services at the time and place where the services are provided. In the event CONSULTANT does not comply with this standard, and omissions or errors are made by CONSULTANT, CONSULTANT will correct such work that contains errors or omissions and reimburse CITY through compensation for damages.
- 3.4.8. CONSULTANT is required to perform the task orders consistent with current applicable Federal, state and local laws, codes and regulations that pertain to the task order. In all task orders, where changes to any laws, codes or regulations affecting the task order have a task order effective date or are anticipated to be effective at a future date, or if knowledge of anticipated changes is available to CONSULTANT or any subcontractor, CONSULTANT shall present options for their use or implementation.
- 3.4.9. Construction Responsibility. Notwithstanding anything in this Agreement, CONSULTANT shall not have control or charge of, and shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety measures, precautions and programs, including enforcement of Federal and state safety requirements, in connection with construction work performed by CITY construction contractors.
- 3.4.10. Estimates. Since CONSULTANT has no control over local conditions, the cost of labor, materials, equipment or services furnished by others, or over competitive bidding or market conditions, CONSULTANT does not guarantee the accuracy of any opinions of probable construction cost as compared to construction contractor's bids or the actual cost to the CITY.

## **ARTICLE 4**

### **TERM OF AGREEMENT; TIME FOR PERFORMANCE; CONTRACTOR DAMAGES:**

The term of this Agreement shall run for the duration of the project as determined by grant deadlines in Exhibit E and will be incorporated into the Agreement by a Task Order that will include require milestones to be met by CONSULTANT.

- 4.1. CONSULTANT shall perform the services described in Exhibit E within the time periods specified.
- 4.2. In the event CONSULTANT is unable to complete the above services because of delays resulting from untimely review by CITY or other governmental authorities having jurisdiction over the Task Order, and such delays are not the fault of CONSULTANT, or because of delays which were caused by factors outside the control of CONSULTANT, CITY shall grant a reasonable extension of time for completion of the services and shall provide reasonable compensation, if appropriate. It shall be the responsibility of CONSULTANT to notify CITY within 10 days in writing whenever a delay in approval by a governmental agency, including CITY, is anticipated or experienced, and to inform the Contract Administrator of all facts and details related to the delay.
- 4.3. In the event the Contractor fails to substantially complete the Task Order on or before the substantial completion date specified in its agreement with CITY or if Contractor is granted an extension of time beyond said substantial completion date, and CONSULTANT's services are extended beyond the substantial completion date, through no fault of CONSULTANT, CONSULTANT shall be compensated in accordance with Article 5 for all services rendered by CONSULTANT beyond the substantial completion date.
- 4.4. In the event Contractor fails to substantially complete the Task Order on or before the substantial completion date specified in its agreement with CITY, and the failure to substantially complete is caused in whole or in part by a negligent act, error or omission of CONSULTANT, then CONSULTANT shall pay to CITY its proportional share of any claim or damages to Contractor or CITY arising out of the delay. This provision shall not affect the rights and obligations of either party as set forth in Paragraph 7.8, INDEMNIFICATION OF CITY.

## **ARTICLE 5**

### **COMPENSATION AND METHOD OF PAYMENT**

#### **5.1. AMOUNT AND METHOD OF COMPENSATION**

The types of compensation methods, which shall be used to pay for the CONSULTANT's services, are limited to the following:

- 5.1.1. Lump sum payment/Not-to-Exceed, which includes compensation for all the CONSULTANT'S salaries, general overhead costs, direct expenses, and profit.
  - 5.1.1.1 If Work timing deviates from the assumed schedule for causes beyond CONSULTANT's control, CONSULTANT and/or the CITY reserves the right to request renegotiation of those portions of the lump sum affected by the time change. During construction contract administration, if tasked, it is agreed by both parties that whether construction is completed earlier or later, that a proportional part of the compensation will be adjusted and either given to CONSULTANT for additional work or deleted from the amount owed CONSULTANT for less time required.
  - 5.1.1.2 In the event of a change of scope, CITY shall authorize in writing an appropriate decrease or increase in compensation.
  - 5.1.1.3 Monthly invoicing will be based on an estimate of the percent of work completed at the end of the preceding month.
  - 5.1.1.4 The CONSULTANT shall submit wage rates and other actual unit costs supporting the compensation. The CONSULTANT shall submit a Truth in Negotiation Certificate stating that all data supporting the compensation is accurate, complete, and current at the time of contracting.
- 5.1.2. Cost Reimbursable-Per Diem (Time and Expenses)
  - 5.1.2.1. Per diem rates are those hourly or daily rates charged for work performed on the WORK by CONSULTANT's employees of the indicated classifications and include all salaries, overheads, and profit, but do not include allowances for Direct Expenses. These rates are subject to annual adjustments based on the Consumer Price Index Urban U.S. City Average All Items U.S. Department of Labor Bureau of Labor Statistics.
  - 5.1.2.2. Hourly rates for the contract (CONSULTANT AND Sub-consultants): See attached Exhibit C.
  - 5.1.2.3. A Not-to-Exceed budgetary amount of \$184,818.75 is established for the Work. This budgetary amount shall not be exceeded unless prior written approval is provided by the CITY. CONSULTANT shall make reasonable efforts to complete the Work within the budget and will keep CITY informed of progress toward that end so that the budget or work effort can be adjusted if found necessary.
  - 5.1.2.4. CONSULTANT is not obligated to incur costs beyond the indicated budgets, as may be adjusted, nor is CITY obligated to pay CONSULTANT beyond these limits.

- 5.1.2.5. When any budget has been increased, CONSULTANT's excess costs expended prior to such increase will be allowable to the same extent as if such costs had been incurred after the approved increase.

## **5.2 REIMBURSABLE EXPENSES**

- 5.2.1 Direct non-salary expenses, entitled Reimbursable Expenses, directly attributable to the Work shall be charged at actual cost, and shall be limited to the following:
  - 5.2.1.1 Identifiable transportation expenses in connection with the Work, subject to the limitations of Section 112.061, Florida Statutes. There shall be no mileage reimbursement for travel within the City of Key West. Transportation expenses to locations outside the City area or from locations outside the City will not be reimbursed unless specifically pre-authorized in writing by the Contract Administrator.
  - 5.2.1.2 Identifiable per diem, meals and lodgings, taxi fares, automobile rental, and miscellaneous travel- connected expenses for CONSULTANT's personnel subject to the limitations of Section 112.061 Florida Statutes. Meals for class C travel inside the City of Key West will not be reimbursed. Lodging will be reimbursed only for room rates equivalent to Hampton Inn or Best Western located within the City of Key West city limits.
  - 5.2.1.3 Identifiable communication expenses approved by the Contract Administrator, long-distance telephone, courier and express mail utilized to render the services required by this Agreement.
  - 5.2.1.4 Cost of printing, reproduction or photography that is required by or of CONSULTANT to deliver services set forth in this Agreement.
  - 5.2.1.5 Identifiable testing costs approved by Contract Administrator.
  - 5.2.1.6 All permit fees paid to regulatory agencies for approvals directly attributable to the Work. These permit fees do not include those permits required for the Contractor.
- 5.2.2 It is acknowledged and agreed to by CONSULTANT that the dollar limitation set forth in Paragraphs 5.2.1.1 through 5.2.1.7 is a limitation upon, and describes the maximum extent of, CITY's obligation to reimburse CONSULTANT for direct, non-salary expenses. If CITY or Contract Administrator requests CONSULTANT to incur expenses not contemplated in the amount for Reimbursable Expenses, CONSULTANT shall notify Contract Administrator in writing before incurring such expenses. Any such expenses shall be reviewed and approved by CITY prior to incurring such expenses.
- 5.2.3 All sub-consultants' hourly rates shall be billed for the actual amount paid by CONSULTANT. Sub- consultant Reimbursable Expenses are limited to the items in Paragraphs 5.2.1.1 through 5.2.1.7 described above when the sub-consultant's agreement provides for reimbursable expenses.



### **5.3. METHOD OF BILLING**

#### **5.3.1. Lump Sum Compensation**

CONSULTANT shall submit billings identifying the type of work completed on a monthly basis in a timely manner. These billings shall identify the nature of the work performed and the estimated percentage of work accomplished. The statement shall show a summary of fees with accrual of the total and credits for portions paid previously. When requested, CONSULTANT shall provide backup for past and current invoices that record hours, personnel, and expense costs on a task basis, so that total hours and costs by task may be determined.

#### **5.3.2. Cost Reimbursable-Per Diem (Time and Expenses) Compensation**

CONSULTANT shall submit billings identifying the type of work completed on a monthly basis in a timely manner for all personnel hours and reimbursable expenses attributable to the Work. These billings shall identify the nature of the work performed, the total hours of work performed and the employee category and name of the individuals performing same. Billings shall itemize and summarize reimbursable expenses by category and identify same as to the personnel incurring the expense and the nature of the work with which such expense was associated. Where prior written approval by the Contract Administrator is required for reimbursable expenses, a copy of the approval shall accompany the billing for such reimbursable. The statement shall show a summary of salary costs and reimbursable expenses with accrual of the total and credits for portions paid previously. External reimbursable expenses and sub-consultant fees must be documented by copies of invoices or receipts that describe the nature of the expenses and contain the purchase order number or other identifier that clearly indicates the expense is identifiable to the Work. The subsequent addition of the identifier to the invoice or receipt by the CONSULTANT is not acceptable except for meals and travel expenses. Appropriate CONSULTANT's cost accounting forms with a summary of charges must document internal expenses by category. When requested, CONSULTANT shall provide backup for past and current invoices that records hours and rates by employee category, reimbursable expenses by category, and subcontractor fees on a task basis, so that total hours and costs by task may be determined.

5.3.3. If requested, CONSULTANT shall provide copies of past paid invoices to any subcontractor or sub-consultant prior to receiving payment. CITY reserves the right to pay any subcontractor or sub-consultant, if CONSULTANT has not paid them timely and the services of the subcontractor or sub-consultant are necessary to complete the Work.

**5.4. METHOD OF PAYMENT**

- 5.4.1 CITY shall pay CONSULTANT within forty-five (45) calendar days from receipt of CONSULTANT's proper invoice with documentation as provided above.
- 5.4.2 In the event CONSULTANT has utilized a Sub-consultant to perform the Work, CONSULTANT will be required to provide documentation that Sub-consultant and Sub-consultants of Sub-consultants have been paid prior to payment being made to CONSULTANT.
- 5.4.3. Payment will be made to CONSULTANT at:

Address: \_\_\_\_\_  
\_\_\_\_\_

**ARTICLE 6**

**CITY'S RESPONSIBILITIES**

- 6.1. CITY shall assist CONSULTANT by placing at CONSULTANT's disposal all information CITY has available pertinent to the Task Order including previous reports and any other data relative to design or construction of the Task Order.
- 6.2. CITY shall arrange for access to, and make all provisions for, CONSULTANT to enter upon public and private property as required for CONSULTANT to perform its services.
- 6.3. CITY shall review the CONSULTANT's itemized deliverables/documents identified in the Task Orders and respond in writing with any comment within the time set forth in the Task Order or within a reasonable time.
- 6.4. CITY shall give prompt written notice to CONSULTANT whenever CITY observes or otherwise becomes aware of any development that affects the scope or timing of CONSULTANT's services or any defect in the work of any Contract.
- 6.5 CITY shall review discriminatory vendors list prior to making any awards.
- 6.6 CITY shall follow §200.318-§200.327 for procurements involving federal awards.

## **ARTICLE 7**

### **MISCELLANEOUS**

#### **7.1. OWNERSHIP OF DOCUMENTS**

All finished or unfinished documents, data, data matrices and calculations generated and used to evaluate and compute the construction or material requirements for the Task Order, studies, surveys, drawings, maps, models, photographs and reports prepared or provided by CONSULTANT in connection with this Agreement, whether in hard copy or electronic form, shall become the property of CITY, whether the Task Order for which they are made is completed or not. If applicable, CITY may withhold any payments then due to CONSULTANT until CONSULTANT complies with the provisions of this Article. CONSULTANT is not responsible for damages caused by the unauthorized re- use by others of any of the materials for another Task Order.

#### **7.2. TERMINATION**

7.2.1. This Agreement may be terminated with or without cause by CITY at any time.

7.2.2. Notice of termination shall be provided in accordance with paragraph 7.12 NOTICES of this Agreement.

7.2.3. In the event this Agreement is terminated, CONSULTANT shall be paid for any services performed to the date the Agreement is terminated. Compensation shall be withheld until all documents specified in Section 7.1 of this Agreement are provided to the CITY. Upon being notified of CITY's election to terminate, CONSULTANT shall refrain from performing further services or incurring additional expenses under the terms of this Agreement. Under no circumstances shall CITY make payment of profit for services that have not been performed.

#### **7.3. AUDIT RIGHT AND RETENTION OF RECORDS**

7.3.1. CITY shall have the right to audit the books, records, and accounts of CONSULTANT that are related to any Task Order. CONSULTANT shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to the Task Order.

7.3.2. CONSULTANT shall preserve and make available, at reasonable times for examination and audit by CITY, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act (Chapter 119, Fla. Stat.), if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after termination of this Agreement. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by CITY to be applicable to CONSULTANT's

records, CONSULTANT shall comply with all requirements thereof; however, CONSULTANT shall violate no confidentiality or non-disclosure requirement of either federal or state law. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for CITY's disallowance and recovery of any payment upon such entry.

#### **7.4. NONDISCRIMINATION, EQUAL EMPLOYMENT OPPORTUNITY, AMERICANS WITH DISABILITIES ACT, AND EQUAL BENEFITS FOR DOMESTIC PARTNERS**

- 7.4.1. CONSULTANT shall not unlawfully discriminate against any person in its operations and activities in its use or expenditure of the funds or any portion of the funds provided by this Agreement and shall affirmatively comply with all applicable provisions of the Americans with Disabilities Act (ADA) in the course of providing any services funded in whole or in part by CITY, including Titles I and II of the ADA (regarding nondiscrimination on the basis of disability), and all applicable regulations, guidelines, and standards.
- 7.4.2. CONSULTANT's decisions regarding the delivery of services under this Agreement shall be made without regard to or consideration of race, age, religion, color, gender, sexual orientation, gender identity or expression, national origin, marital status, physical or mental disability, political affiliation, or any other factor that cannot be lawfully or appropriately used as a basis for service delivery. CONSULTANT shall comply with Title I of the Americans with Disabilities Act regarding nondiscrimination on the basis of disability in employment and further shall not discriminate against any employee or applicant for employment because of race, age, religion, color, gender, sexual orientation, national origin, gender identity or expression, marital status, political affiliation, or physical or mental disability. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay, other forms of compensation, terms and conditions of employment, training (including apprenticeships), and accessibility.
- 7.4.3. Consultant shall comply with City Ordinance Sec. 2-799 Requirements for City Contractors to Provide Equal Benefits for Domestic Partners

#### **7.5. PUBLIC ENTITY CRIMES ACT**

- 7.5.1. CONSULTANT represents that the execution of this Agreement shall not violate the Public Entity Crimes Act (Section 287.133, Florida Statutes), which essentially provides that a person or affiliate who is a contractor, consultant or other provider and who has been placed on the convicted vendor list following a conviction for a Public Entity Crime may not submit a bid on a contract to provide any goods or services to CITY, may not submit a bid on a contract with CITY for the construction or repair of a public building or public work, may not submit bids on leases of real property to CITY, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with CITY, and may not transact any business with CITY in excess of the threshold amount provided in Section 287.017, Florida Statutes, for category two purchases for a period of 36 months from the date of being placed on the convicted vendor list. Violation of this section shall result in termination

of this Agreement and recovery of all monies paid hereto and may result in being barred from CITY's competitive procurement activities.

- 7.5.2. In addition to the foregoing, CONSULTANT further represents that there has been no determination, based on an audit, that it or any sub-consultant, has committed an act defined by Section 287.133, Florida Statutes, as a "public entity crime" and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether CONSULTANT has been placed on the convicted vendor list.
- 7.5.3. CONSULTANT shall promptly notify CITY if it or any subcontractor or sub-consultant is formally charged with an act defined as a "public entity crime" or has been placed on the convicted vendor list.

**7.6. SUB-CONSULTANTS**

CONSULTANT may use the sub-consultants identified in the proposal that was a material part of the selection of CONSULTANT to provide the services under this Agreement. The CITY reserves the right to accept the use of a sub-consultant or to reject the selection of a particular sub-consultant and to inspect all facilities of any sub-consultants in order to make determination as to the capability of the sub-consultant to perform properly under this Contract. The CITY's acceptance of a sub-consultant shall not be unreasonably withheld. CONSULTANT shall obtain written approval of Contract Administrator prior to changing or adding to the list of sub-consultants. The list of sub-consultants submitted and currently approved is as follows:

- a. \_\_\_\_\_
- b. \_\_\_\_\_
- c. \_\_\_\_\_
- d. \_\_\_\_\_

Hourly rates for such said Sub-consultants are as on attached Exhibit C.

**7.7. ASSIGNMENT AND PERFORMANCE**

- 7.7.1. Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered by either party and CONSULTANT shall not subcontract any portion of the work required by this Agreement except as authorized pursuant to Section 7.6.
- 7.7.2. CONSULTANT represents that all persons delivering the services required by this Agreement have the knowledge and skills, either by training, experience, education, or a combination thereof, to adequately and competently perform the duties, obligations, and services set forth in the Scope of Services and to provide and perform such services to CITY's satisfaction for the agreed compensation.

- 7.7.3. CONSULTANT shall perform its duties, obligations, and services under this Agreement in a skillful and respectable manner. The quality of CONSULTANT's performance and all interim and final product(s) provided to or on behalf of CITY shall be in accordance with the standard of care set forth in Article 3.
- 7.7.4. CONSULTANT shall not change or replace overall project manager identified in the CONSULTANT's response to the RFQ without the Contract Administrator's prior written approval.

## **7.8. INDEMNIFICATION OF CITY**

- 7.8.1. To the fullest extent permitted by law, the CONSULTANT expressly agrees to indemnify and hold harmless the City of Key West, their officers, directors, agents, and employees (herein called the "indemnities") from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees and court costs, such legal expenses to include costs incurred in establishing the indemnification and other rights agreed to in this Paragraph, to persons or property, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the CONSULTANT, its Subcontractors or persons employed or utilized by them in the performance of the Contract. Claims by indemnities for indemnification shall be limited to the amount of CONSULTANT's insurance or \$1 million per occurrence, whichever is greater. The parties acknowledge that the amount of the indemnity required hereunder bears a reasonable commercial relationship to the Contract and it is part of the project specifications or the bid documents, if any.
- 7.8.2. The indemnification obligations under the Contract shall not be restricted in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the CONSULTANT under workers' compensation acts, disability benefits acts, or other employee benefits acts, and shall extend to and include any actions brought by or in the name of any employee of the CONSULTANT or of any third party to whom CONSULTANT may subcontract a part or all of the Work. This indemnification shall continue beyond the date of completion of the Work.
- 7.8.3. Reports, documents and other deliverables of the CONSULTANT, whether in hard copy or in electronic form, are instruments of service for the project of the CITY. All documents provided to the City are the property of the City of Key West. Reuse, change, or alteration on another project, by the CITY or by others acting on behalf of the CITY of any such instruments of service without the written permission of the CONSULTANT will be at the CITY's sole risk. Nothing herein shall constitute a waiver of City's sovereign immunity rights, including, but not limited to, those expressed in Section 768.28, Florida Statutes
- 7.8.4. It is not intended by any of the provisions of any part of this Agreement to create in the public, or any member thereof, a third-party beneficiary under this Agreement, or to authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damage, pursuant to the terms or provisions of this Agreement. CONSULTANT guaranties the payment of all just claims for materials, supplies, tools, or labor and other just claims against the CONSULTANT or any subcontractor, in connection with this Agreement. Additionally, to the extent permitted by law and as limited by and pursuant to the provisions of Section 768.28,

Florida Statutes, the CONSULTANT agrees to indemnify and hold harmless the Department and the Division, including their officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness or intentional wrongful misconduct of the CONSULTANT and persons employed or utilized by the CONSULTANT in the performance of this Agreement. Nothing contained in this paragraph is intended to, nor shall it constitute a waiver of the State of Florida and the CONSULTANT's sovereign immunity. Additionally, the CONSULTANT agrees to include the following indemnification in all contracts with contractors/subcontractors and consultants/sub-consultants (contractors/subcontractors and consultants/sub-consultants are referred to as "ENTITY") who perform work in connection with this Agreement:

"To the extent provided by law, [ENTITY] shall indemnify, defend, and hold harmless the [CONSULTANT] and the State of Florida Division of Emergency Management, including their officers, agents, and employees, against any actions, claims, or damages arising out of, relating to, or resulting from negligent or wrongful act(s) of [CONSULTANT], or any of its officers, agents, or employees, acting within the scope of their office or employment, in connection with the rights granted to or exercised by [CONSULTANT] hereunder, to the extent and within the limitations of Section 768.28, Florida Statutes.

The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in Section 768.28, Florida Statutes. Nor shall the same be construed to constitute agreement by [ENTITY] to indemnify [CONSULTANT] for the negligent acts or omissions of [CONSULTANT], its officers, agents, employees, or third parties. Nor shall the same be construed to constitute agreement by [ENTITY] to indemnify the Department or the Division for the negligent acts or omissions of the Department or the Division, its officers, agents, employees, or third parties. This indemnification shall survive the termination of this Agreement."

## **7.9. INSURANCE**

### **7.9.1. GENERAL REQUIREMENTS**

- 7.9.1.01 During the Term of the Agreement, the Contractor shall provide, pay for, and maintain with insurance companies satisfactory to the City of Key West, Florida ("City"), the types of insurance described herein.
- 7.9.1.02 All insurance shall be from responsible insurance companies eligible to do business in the State of Florida. The required policies of insurance shall be performable in Monroe County, Florida, and shall be construed in accordance with the laws of the State of Florida.
- 7.9.1.03 The City shall be specifically included as an additional insured on the Contractor's Liability policies with the exception of the Contractor's Professional Liability policies (if required) and shall also provide the "Severability of Interest" provision (a/k/a "Separation of Insured's" provision). The City's additional insured status should be extended to all Completed Operations coverages.
- 7.9.1.04 The Contractor shall deliver to the City, prior to commencing work/activities under the Agreement, properly executed "Certificate(s) of Insurance" setting forth the

insurance coverage and limits required herein. The Certificates must be signed by the authorized representative of the insurance company(s) shown on the Certificate of Insurance. In addition, certified, true, and exact copies of the insurance policies required herein shall be provided to the City, on a timely basis, if requested by the City.

- 7.9.1.05 If the Contractor fails to provide or maintain the insurance coverages required in this Agreement at any time during the Term of the Agreement and if the Contractor refuses or otherwise neglects to deliver the required Certificate(s) of Insurance signed by the authorized representative of the insurance company(s) to the City, the City may, at the City's sole discretion, terminate or suspend this Agreement and seize the amount of Contractor's performance bond, letter of credit, or other security acceptable to the City).
- 7.9.1.06 The Contractor shall take immediate steps to make up any impairment to any Aggregate Policy Limit upon notification of the impairment. If at any time the City requests a written statement from the insurance company(s) as to any impairment to the Aggregate Limit, the Contractor shall promptly authorize and have delivered such statement to the City.
- 7.9.1.07 The Contractor authorizes the City and/or its insurance consultant to confirm all information furnished to the City, as to its compliance with its Bonds and Insurance Requirements, with the Contractor's insurance agents, brokers, surety, and insurance carriers.
- 7.9.1.08 All insurance coverage of the Contractor shall be primary to any insurance or self-insurance program carried by the City. The City's insurance or self-insurance programs or coverage shall not be contributory with any insurance required of the Contractor in this Agreement.
- 7.9.1.09 The acceptance of delivery to the City of any Certificate of Insurance evidencing the insurance coverage and limits required in the Agreement does not constitute approval or agreement by the City that the insurance requirements in the Agreement have been met or that the insurance policies shown in the Certificates of Insurance are in compliance with the Agreement requirements.
- 7.9.1.10 No work/activity under this Agreement shall commence or continue unless and until the required Certificate(s) of Insurance are in effect and the written Notice to Proceed is issued by the City.
- 7.9.1.11 The insurance coverage and limits required of the Contractor under this Agreement are designed to meet the minimum requirements of the City. They are not designed as a recommended insurance program for the Contractor. The Contractor alone shall be responsible for the sufficiency of its own insurance program. Should the Contractor have any question concerning its exposures to loss under this Agreement or the possible insurance coverage needed therefore, it should seek professional assistance.
- 7.9.1.12 During the Term of this Agreement, the City and its agents and contractors may continue to engage in necessary business activities during the operations of the Contractor. No personal property owned by City used in connection with these



business activities shall be considered by the Contractor's insurance company as being in the care, custody, or control of the Contractor.

- 7.9.1.13 Should any of the required insurances specified in this Agreement provide for a deductible, self-insured retention, self-insured amount, or any scheme other than a fully insured program, the Contractor shall be responsible for all deductibles and self-insured retentions.
- 7.9.1.14 All of the required insurance coverages shall be issued as required by law and shall be endorsed, where necessary, to comply with the minimum requirements contained herein.
- 7.9.1.15 All policies of insurance required herein shall require that the insurer give the City thirty (30) days advance written notice of any cancellation, intent not to renew any policy and/or any change that will reduce the insurance coverage required in this Agreement, except for the application of the Aggregate Limits Provisions.
- 7.9.1.16 Renewal Certificate(s) of Insurance shall be provided to the City at least twenty (20) days prior to expiration of current coverage so that there shall be no termination of the Agreement due to lack of proof of the insurance coverage required of the Contractor.
- 7.9.1.17 If the Contractor utilizes contractors or sub-contractors to perform any operations or activities governed by this Agreement, the Contractor will ensure all contractors and sub-contractors to maintain the same types and amounts of insurance required of the Contractor. In addition, the Contractor will ensure that the contractor and sub-contractor insurances comply with all of the Insurance Requirements specified for the Contractor contained within this Agreement. The Contractor shall obtain Certificates of Insurance comparable to those required of the Contractor from all contractors and sub-contractors. Such Certificates of Insurances shall be presented to the City upon request. Contractor's obligation to ensure that all contractor's and sub-contractor's insurance as provided herein shall not exculpate Contractor from the direct primary responsibility Contractor has to the City hereunder. The City will look directly to Contractor for any such liability hereunder and shall not be obligated to seek recovery from any contractor or subcontract or under such contractor's or sub-contractor's insurance coverages.

## **7.9.2 SPECIFIC INSURANCE REQUIREMENTS**

- 7.9.2.01 All requirements in this Insurance Section shall be complied with in full by the Contractor unless excused from compliance in writing by the City.
- 7.9.2.02 The amounts and types of insurance must conform to the following minimum requirements. Current Insurance Service Office (ISO) or National Council on Compensation Insurance (NCCI) policies, forms, and endorsements or broader shall be used where applicable. Notwithstanding the foregoing, the wording of all policies, forms, and endorsements must be acceptable to the City.

**Workers' Compensation and Employers' Liability Insurance** shall be maintained in force during the Term of this Agreement for all employees engaged in this work under this Agreement, in accordance with the laws of the State of Florida. The minimum acceptable limits shall be:

Workers' Compensation	Florida Statutory Requirements
Employer's Liability	\$100,000.00 Limit Each Accident
	\$500,000.00 Limit Disease Aggregate
	\$100,000.00 Limit Disease Each Employee

If the Contractor has less than four (4) employees and has elected not to purchase Workers' Compensation/Employers Liability coverage as permitted by *Florida Statutes*, the Contractor will be required to issue a formal letter (on the Contractor's letterhead) stating that it has less than four (4) employees and has elected not to purchase Workers' Compensation/Employers Liability coverage as permitted by *Florida Statutes*. This exception does **not** apply to firms engaged in construction activities.

**Commercial General Liability Insurance** shall be maintained by the Contractor on a Full Occurrence Form. Coverage shall include, but not be limited to, Premises and Operations, Personal Injury, Contractual for this Agreement, Independent Contractors, and Products & Completed Operations Coverage. The limits of such coverage shall not be less than:

Bodily Injury & Property Damage Liability	\$1,000,000.00 Combined Single Limit each Occurrence and Aggregate
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Completed Operations Liability Coverage shall be maintained by the Contractor for a period of not less than four (4) years following expiration or termination of this Agreement.

The use of an Excess, Umbrella and/or Bumbershoot policy shall be acceptable if the level of protection provided by the Excess, Umbrella and/or Bumbershoot policy is equal to or more comprehensive than the Primary Commercial General Liability policy.

**Business Automobile Liability Insurance** shall be maintained by the Contractor as to ownership, maintenance, use, loading and unloading of all owned, non-owned, leased, or hired vehicles with limits of such coverage of not less than:

Bodily Injury	\$500,000.00 Limit Each Accident
Property Damage Liability	\$500,000.00 Limit Each Accident

or

Bodily Injury & Property Damage Liability Accident	\$500,000.00 Combined Single Limit Each
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If the Contractor does not own any vehicles, this requirement can be satisfied by having the Contractor's Commercial General Liability policy endorsed with "Non-Owned and Hired Automobile" Liability coverage.

**Professional Liability Insurance** shall be maintained by the Contractor which will respond to damages resulting from any claim arising out of the performance of professional services or any error or omission of the Contractor arising out of activities governed by this Agreement. The minimum acceptable limits of liability shall be \$1,000,000 per Occurrence and \$2,000,000 Annual Aggregate. If the policy is structured on a “Claims Made” basis, the policy must contain a “Retroactive Date” of no later than the commencement date of the Agreement and will have an extended reporting period of four (4) years following expiration or termination of the Agreement.

**7.10. REPRESENTATIVE OF CITY AND CONSULTANT**

- 7.10.1. The parties recognize that questions in the day-to-day conduct of the Task Order will arise. The Contract Administrator, upon CONSULTANT's request, shall advise CONSULTANT in writing of one (1) or more CITY employees to whom all communications pertaining to the day-to-day conduct of the Task Order shall be addressed.
- 7.10.2. CONSULTANT shall inform the Contract Administrator in writing of CONSULTANT's representative to whom matters involving the conduct of the Task Order shall be addressed.

**7.11. ALL PRIOR AGREEMENTS SUPERSEDED**

- 7.11.1. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained herein; and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document and the exhibits attached. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements whether oral or written.
- 7.11.2. It is further agreed that no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

**7.12. NOTICES**

Whenever either party desires to give notice unto the other, such notice must be in writing, sent by certified United States mail, return receipt requested, addressed to the party for whom it is intended at the place last specified; and the place for giving of notice shall remain such until it shall have been changed by written notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective places for giving of notice:

FOR CITY OF KEY WEST:

City Manager  
City of Key West  
1300 White Street  
Key West, FL 33040

AND  
Grants Manager  
City of Key West  
1300 White Street  
Key West, FL 33040

FOR CONSULTANT:

Contact Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**7.13. TRUTH-IN-NEGOTIATION CERTIFICATE**

Signature of this Agreement by CONSULTANT shall act as the execution of a truth-in negotiation certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current at the time of contracting. The original contract price for any Task Order and any additions thereto shall be adjusted to exclude any significant sums, by which CITY determines the contract price was increased due to inaccurate, incomplete, or non-current wage rates and other factual unit costs. All such contract adjustments shall be made within one (1) year following the end of this Agreement.

**7.14. INTERPRETATION**

The language of this Agreement has been agreed to by both parties to express their mutual intent and no rule of strict construction shall be applied against either party hereto. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement shall include the other gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as "herein," "hereof," "hereunder," and "hereinafter" refer to this Agreement as a whole and not to any particular sentence or paragraph where they appear, unless the context otherwise requires. Whenever reference is made to a Paragraph or Article of this Agreement, such reference is to the Paragraph or Article as a whole, including all of the subsections of such Paragraph, unless the reference is made to a particular subsection or subparagraph of such Paragraph or Article.

**7.15. CONSULTANT'S STAFF**

- 7.15.1. CONSULTANT shall provide the key staff identified in their proposal for Task Order as long as such key staff are in CONSULTANT's employment.
- 7.15.2. CONSULTANT shall obtain prior written approval of Contract Administrator to change key staff. CONSULTANT shall provide the Contract Administrator with such information as necessary to determine the suitability of proposed new key staff. Contract Administrator shall be reasonable in evaluating key staff qualifications.
- 7.15.3. If the Contract Administrator desires to request removal of any of CONSULTANT's staff, Contract Administrator shall first meet with CONSULTANT and provide reasonable justification for said removal.

- 7.15.4. The CITY reserves the right to approve the members of the Consulting Team and the roles they will undertake in the assignment. The CITY's acceptance of a team member shall not be unreasonably withheld.
- 7.15.5. Each assignment issued under this Agreement by the CITY to the Consultant, the Consultant will at the CITY's request, disclose the role, qualifications, and hourly rate of each individual working on the assignment.
- 7.15.6. The CITY reserves the right to require replacement of any of the members of the Consulting Team. Any proposed addition or change of members of the Consulting Team initiated by the Consultant must obtain the CITY Representative's prior written approval.
- 7.15.7. In the event of the death, incapacity, or termination of employment of any member of the Consulting Team before Completion of the Services, the Consultant shall at its own expense and as soon as reasonably practicable arrange to substitute or replace the individual member concerned.
- 7.15.8. The Consultant shall ensure that the substitute or replacement is no less qualified in terms of relevant experience and qualifications than the outgoing individual and is available at the relevant time to act as such replacement or substitute. The Consultant shall without delay forward the curriculum vitae of the proposed substitute or replacement to the CITY. The deployment of such a substitute or replacement shall be subject to the CITY's consent.
- 7.15.9. The Consultant shall solely be responsible for all direct, indirect, and consequential costs or losses that may arise from the substitution or replacement of members of the Consulting Team.

#### **7.16. INDEPENDENT CONTRACTOR**

CONSULTANT is an independent contractor under this Agreement. Services provided by CONSULTANT shall be subject to the supervision of CONSULTANT. In providing the services, CONSULTANT or its agents shall not be acting and shall not be deemed as acting as officers, employees, or agents of the CITY, nor shall they accrue any of the rights or benefits of a CITY employee. The parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement.

#### **7.17. THIRD PARTY BENEFICIARIES**

Neither CONSULTANT nor CITY intend directly or substantially to benefit a third party by this Agreement. Therefore, the parties agree that there are no third-party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them based upon this Agreement. No subcontractor or sub-consultant, whether named or unnamed, shall be a third-party beneficiary of this Agreement.

All work products will be prepared for the exclusive use of CITY for specific application as described in the proposed scope of services. No warranty, expressed or implied, is made.

There are no beneficiaries of the work products other than CITY, and no other person or entity is entitled to rely upon the work products without the written consent of CITY. Any unauthorized assignment of related work product shall be void and unenforceable.

## **7.18. CONFLICTS**

- 7.18.1. Neither CONSULTANT nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with CONSULTANT's loyal and conscientious exercise of judgment related to its performance under this Agreement.
- 7.18.2. CONSULTANT agrees that none of its officers or employees shall, during the term of this Agreement, serve as an expert witness against CITY in any legal or administrative proceeding in which he or she is not a party, unless compelled by court process, nor shall such persons give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of CITY or in connection with any such pending or threatened legal or administrative proceeding. The limitations of this section shall not preclude such persons from representing themselves in any action or in any administrative or legal proceeding.
- 7.18.3. In the event CONSULTANT is permitted to use sub-consultants to perform any services required by this Agreement, CONSULTANT agrees to prohibit such sub-consultants from having any conflicts as within the meaning of this section and shall so notify them in writing.

## **7.19. CONTINGENCY FEE**

CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for CONSULTANT, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for CONSULTANT, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For a breach or violation of this provision, CITY shall have the right to terminate this Agreement without liability at its discretion, or to deduct from the Agreement price or otherwise recover the full amount of such fee, commission, percentage, gift, or consideration.

## **7.20. WAIVER OF BREACH AND MATERIALITY**

- 7.20.1. Failure by CITY to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.
- 7.20.2. CITY and CONSULTANT agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof.

**7.21. COMPLIANCE WITH LAWS**

CONSULTANT shall comply with federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations related to this Agreement applicable at the time the scope of services was drafted for this agreement. In addition, at the time each Task Order is executed, any revisions to applicable federal state, and local laws, codes, ordinances, rules and regulations shall apply.

**7.22. SEVERABILITY**

In the event this Agreement or a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless CITY or CONSULTANT elects to terminate this Agreement.

**7.23. JOINT PREPARATION**

Preparation of this Agreement has been a joint effort of CITY and CONSULTANT and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than any other.

**7.24. PRIORITY OF PROVISIONS**

If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Agreement by reference and a term, statement, requirement, or provision of this Agreement, the term, statement, requirement, or provision contained in Articles 1 through 7 of this Agreement shall prevail and be given effect.

**7.25. APPLICABLE LAW AND VENUE**

The laws of the State of Florida govern the validity of this Agreement, its interpretation and performance, and any claims related to it. The venue for mediation, arbitration or any other legal proceeding shall be Monroe County, Florida.

**7.26. INCORPORATION BY REFERENCE**

The attached Exhibits are incorporated into and made a part of this Agreement:

Exhibit D - 2 CFR Appendix II to Part 200: Contract Provisions for Non-Federal Entity Contracts Under Federal Awards

Exhibit E – FDEM Agreement, Scope of Work and Budget (Attachment A, Pg 30 of Agreement) & Reporting Forms (Attachment F, Pg 46 of Agreement)

**7.27. COUNTERPARTS**

This Agreement may be executed in three (3) counterparts, each of which shall be deemed to be an original.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature.

By: CITY OF KEY WEST

By: CONSULTANT

\_\_\_\_\_  
Albert Childress, City Manager

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name and Title)

\_\_\_ day of \_\_\_\_\_, 2023\_

\_\_\_ day of \_\_\_\_\_, 2023

Attest:

Attest:

\_\_\_\_\_  
Keri O'Brien, City Clerk

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name and Title)

\_\_\_ day of \_\_\_\_\_, 2023

\_\_\_ day of \_\_\_\_\_, 2023



**Exhibit C: Hourly Fee Schedule**

**Company Name:**

\_\_\_\_\_

**Date:** \_\_\_\_\_

**Position Title**

**Hourly Rate**

\_\_\_\_\_

**Exhibit D: 2 CFR Appendix II to Part 200**  
**Contract Provisions for Non-Federal Entity Contracts Under Federal Awards**

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

- (A) Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.
- (B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.
- (C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”
- (D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.
- (E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act,

each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

- (F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.
- (G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended - Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
- (H) Debarment and Suspension (Executive Orders 12549 and 12689) – A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
- (I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) - Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.
  - (J) See § 200.323.
  - (K) See § 200.216.
  - (L) See § 200.322.

## **Exhibit E: FDEM Agreement HO866**

*Entire Agreement:*

[https://drive.google.com/file/d/1YCKJlmdBrPc1Gyj4kAPbks--GVK9DcN/view?usp=drive\\_link](https://drive.google.com/file/d/1YCKJlmdBrPc1Gyj4kAPbks--GVK9DcN/view?usp=drive_link)

### **FDEM Scope of Work and Budget**

(FDEM Agreement HO866, Attachment A, Pg 30)

#### **Attachment A**

### **Watershed Master Planning Initiative City of Key West Watershed Management Plan Scope of Work and Budget Statement of Purpose**

The Florida Division of Emergency Management's (the Division) Bureau of Mitigation prioritizes flood risk management as an integral part of its mission. The goals of this project are to assist local communities in developing a Watershed Master Plan for the purposes of moving up in the Community Rating System (CRS) of the National Flood Insurance Program (NFIP) and to increase resiliency in Florida communities. This project is funded through the Hazard Mitigation Grant Program (HMGP) **DR-4337-004-P**, as approved by the Division and the Federal Emergency Management Agency (FEMA) to create and update Watershed Master Plans (WMPs) throughout the state of Florida.

The Project Manager for the Division will be:

Laura Dhuwe, Project Manager  
Hazard Mitigation Grant Program  
Florida Division of Emergency Management  
850-879-0872  
[watershedplanning@em.myflorida.com](mailto:watershedplanning@em.myflorida.com)

#### **Scope of Work**

The Division will coordinate with eligible Florida entities to produce a Watershed Master Plan (WMP) for credit under CRS. This project is preceded by the WMP Pilot Program, which consisted of research and the creation of guidance materials to ensure a consistent statewide approach to WMP development.

Guidance materials produced in the WMP Pilot Program can be found at: <https://www.floridadisaster.org/dem/mitigation/watershed-planning-initiative> or <https://www.fau.edu/engineering/research/cwr3/clearinghouse/>. The Sub-Recipient may use other materials provided by ISO and located at <https://fema.gov>. The Sub-Recipient shall follow the Credit Criteria for Element WMP under CRS Activity 452.b (please refer to the 2017 CRS Coordinator's Manual and the 2021 Addendum to the Coordinator's Manual). The Sub-Recipient will finalize the process by submitting their WMP to ISO/CRS for review and providing the Division with a signed letter from their applicable county's Local Mitigation Strategy (LMS) Chairperson attesting that the WMP will be adopted in the Sub-Recipient's next LMS update.

Tasks necessary to the completion of a WMP include:

### **Task 1 – Create Preliminary Project Plan based on Initial Flood Modeling, and Submit Draft WMP**

The Sub-Recipient shall create a preliminary Project Plan, which is a narrative detailing how the initial flood modeling has sufficient detail on the data that went into the model, model specifications, and possible solutions for addressing flood risks that the model identified. There must be enough detail in the preliminary Project Plan to verify the required analysis has been completed. Specifically, the required analysis for the preliminary Project Plan shall include all the Minimum Criteria required for a creditable WMP under the two categories of Data Inventory and Collection and Initial Flood Modeling as follows:

#### Data Inventory and Collection:

1. Data inventory (used for initial flood modeling):
  - a. Inventory of ground characteristics (e.g., soil type, impervious surfaces, wetlands)
  - b. Inventory of existing drainage system
  - c. Inventory of data availability
2. Locations of:
  - a. Critical facilities, cultural/historical, and other places/areas of interest
  - b. Vulnerable areas and their descriptions
  - c. Natural and constructed drainage systems and channels
3. Existing regulations and plans in place for reducing flood risks Initial Flood Modeling
4. For current/existing conditions land use, future land use, and the fully developed watershed scenarios:
  - a. Evaluations of the existing drainage system's runoff response from design storms using a hydrologic and hydraulic study with a hydrograph approach under current and predicted future land use conditions with assessments of the impacts of climate change and sea level rise for 10-, 25- & 100-year storm events
  - b. For currently fully developed watersheds: studies of existing development and the potential impact of any redevelopment
  - c. Evaluations of different management scenarios for at least the 100-year rainfall event for a fully developed watershed at a scale sufficient to determine local problems.
  - d. Determinations of the change in runoff from current to future, fully developed conditions
  - e. Recommendations for managing at least the 10-year and the 25-year rainfall events.
5. For communities impacted by sea level rise: evaluations of the impacts of the NOAA intermediate 2100 sea level rise scenario on the 100-year rainfall event
  - a. It is highly recommended to include 2 other scenarios up to 2100, which could be based on sea level for 2-time frames into the future or a number of feet of sea level rise within this timeframe.
6. The plan must include a strategy and action plan to address the results of the studies for:
  - a. Controlling the timing of peak flows to prevent or minimize problems for the entire watershed due to new development, redevelopment, and fully developed conditions.
  - b. The impact of climate change and sea level rise on fully developed conditions
  - c. At least the 25-year rainfall event in fully developed conditions, with a list of possible solutions for addressing at least the 25-year rainfall event.
  - d. At least one event larger than the 25-year rainfall event, with a list of possible solutions for addressing this event.
  - e. Ensuring that flood hazards from the 10-year and the 25-year events are not increased by future development (the 2-year storm is also recommended).
7. The community must adopt the final plan.
8. If applicable, WMP plans more than 5 years old must be evaluated to ensure that they remain

applicable to current conditions. For instance, are previous assumptions on hydrology, sea level rise and future land use still applicable.

**Deliverable 1:** An (1) electronic copy of the preliminary Project Plan; (2) a separate electronic document listing how and where in the preliminary Project Plan the Minimum Criteria listed above are met; and (3) a separate electronic document clarifying the Sub-Recipient’s existing data inventory at the time of contract execution, how the data are used, and which tasks and efforts have already been completed prior to contract execution. These three electronic documents must be submitted to the Division for review no later than 11 months after the beginning of the Period of Performance. The Sub-Recipient will provide Deliverable 1 to the Division via email to [watershedplanning@em.myflorida.com](mailto:watershedplanning@em.myflorida.com).

Payment for Task 1 will occur once the Sub-Recipient has received feedback from the Division confirming that their preliminary Project Plan has been approved. To be approved, the preliminary Project Plan must show how all the listed Minimum Criteria required for a creditable WMP are intended to be met. The Period of Performance begins with the date of execution of the subgrant agreement by both parties, and the Sub-Recipient shall provide the Division with the following no later than 11 months from the beginning of the Period of Performance before payment will be processed.

#### **Jurisdiction Specific Comments for Task 1:**

**Task 1.1: Data collection for structures** – City of Key West shall provide a list of critical assets, including regionally significant, to be evaluated for potential impacts by flooding and sea level rise including (but not limited to) transportation assets and evacuation routes; critical infrastructure; critical community and emergency facilities; and natural, cultural, and historical resources.

Additionally, City of Key West shall include an individualized assessment with updated structures from the 2019 Watershed Management Plan, and any additional field work and analysis stemming from the Countywide Roads and Stormwater Assessment (2022).

**Tasks 1.2 and 1.3: Preliminary Flood Modeling and Project Plan** – In addition to the above Minimum Criteria, City of Key West shall align the Project Plan modeling effort with Section 380.093, F.S., and the approach for this assessment will include:

- 1) mapping potential future regular tidal inundation from sea level rise, high tide flooding, and
- 2) map potential storm surge events to project multiple sea-level-adjusted designed storm events (at a minimum, the 100-year event).

Additionally, City of Key West will clarify in writing which tasks and efforts have already been completed prior to contract execution. With the mapping efforts, City of Key West shall provide the source and dates of data acquisition, locational accuracy, and map projection and coordinate system information of geospatial data.

#### **Task 2 – Revise Draft WMP and Submit Completed WMP**

After receiving feedback from the Division on the preliminary Project Plan from Task 1 (Deliverable 1), the Sub-Recipient shall finalize the flood modeling process and submit their completed WMP. At a minimum, the modeling and WMP must meet the Minimum Criteria required for a creditable WMP shown above. The Sub-Recipient shall update their WMP, if revisions are necessary based on the Division’s feedback, and submit the completed WMP to the Division for review.

Throughout the activities for Task 2, the Sub-Recipient shall coordinate with the applicable LMS working group to ensure that the working group will adopt the WMP as an annex in the next LMS update, and use the data to inform the risk assessment and mitigation strategy.

**Deliverable 2:** An electronic copy of the completed WMP will be submitted to the Division no later than 12 months after the beginning of the Period of Performance. If applicable, the Sub-Recipient will revise the submitted WMP to comply with required revisions and feedback from the Division, and then resubmit the WMP to the Division no later than 12 months after the beginning of the Period of Performance. The Period of Performance begins with the date of execution of the subgrant agreement by both parties, and the Sub-Recipient shall provide the Division with the following no later than 12 months from the beginning of the Period of Performance before payment will be processed:

1. the completed WMP (after incorporating comments from the Division, if applicable); and
2. a signed letter from the applicable county’s Local Mitigation Strategy (LMS) Chairperson attesting that the completed WMP will be adopted and used to update the risk assessment and mitigation strategy during the next LMS plan update.

The Sub-Recipient will provide Deliverable 2 to the Division via email to [watershedplanning@em.myflorida.com](mailto:watershedplanning@em.myflorida.com).

**Method of Compensation:**

All deliverables submitted to the Project Manager or to the Division shall be completed by the Sub-Recipient and approved for completeness and accuracy by the Project Manager or the Division to qualify as reaching the minimum required criteria for each invoice period.

All tasks shall be performed under the direct supervision of the Division.

The project shall be reimbursed upon receipt of invoices submitted at the completion and acceptance of each deliverable defined above unless this agreement is terminated early. This is a cost reimbursement agreement, which will be reimbursed on a fixed-fee, fixed-price agreement as follows:

<b>Deliverables</b>	<b>Total Deliverable Value</b>	<b>Due Date</b>
Task 1 – Create Preliminary Project Plan based on Initial Flood Modeling, and Submit Draft WMP	\$136,300.00	11 Months after beginning of POP
Task 2 – Revise Draft WMP and Submit Completed WMP	\$110,125.00	12 months after beginning of POP
<b>Total</b>	<b>\$246,425.00</b>	

**Financial Consequences for Non-Performance:**

The failure to provide the Division with the required deliverables within the stated timelines shall result in a penalty of 5 % of the determined deliverable amount for each late deliverable. Penalty may be waived based upon reasonable explanation with documentation by Sub-Recipient.

Should the Sub-Recipient determine that there are significant barriers to conduct any of the minimum deliverables due to extenuating circumstances, the Division may re-evaluate performance expectations upon a formal request from the Sub-Recipient.

If the Sub-Recipient fails to comply with any terms of the agreement, the Division shall take one or more of the following actions:

1. Temporarily withhold cash payments pending correction of the deficiency by the Sub-Recipient;
2. Disallow all or part of the cost of the activity or action not in compliance;
3. Wholly or partially suspend or terminate the current agreement for the Sub-Recipient’s project;
4. Withhold further agreements for the project; or
5. Take other actions that are legally allowed.

**Schedule of Work**

Task(s)	Number of Months to Complete
Field work and data collection for structures (Task 1)	3
Preliminary Flood Modeling (Task 1)	6
Preliminary Project Plan (Task 1)	2
Submit Completed Final WMP & CRS Plan (Task 2)	12
<b>Total Period of Performance (maximum of 12 months):</b>	<b>12</b>

**Total Period of Performance**

**The Period of Performance for this project begins on the date of execution of the subgrant agreement by both parties and ends on September 30,**

2024

**Budget**

Cost Item	Project Cost	Federal Share	Non-Federal Share
Personnel			
Fringe Benefits			
Travel			
Equipment			
Supplies			
Contractual	\$246,425.00	\$184,818.75	\$61,606.25
Other			
<b>Project Total:</b>	<b>\$246,425.00</b>	<b>\$184,818.75</b>	<b>\$61,606.25</b>

**Funding Summary Totals**

Federal Share:	\$184,818.75	75.00%
Non-Federal Share:	\$61,606.25	25.00%
<b>Total Project Cost:</b>	<b>\$246,425.00</b>	<b>100.00%</b>



**FDEM Quarterly Report Form**  
**See Attachment F, Page 47 of FDEM Agreement HO866**

**Attachment F**  
**QUARTERLY REPORT FORM**

*Instructions: Complete and submit this form to State Project Manager within 15-days after each quarter:*

SUB-RECIPIENT: City of Key West PROJECT #: 4337-4-Po  
 PROJECT TYPE: Watershed Management Plan CONTRACT #: H0866  
 PROGRAM: Hazard Mitigation Grant Program QUARTER ENDING: \_\_\_\_\_

**Advance Payment Information:**

Advance Received  N/A  Amount: \$ \_\_\_\_\_ Advance Settled? Yes  No

**Financial Amount to Date:**

Sub-Recipient Total Project Expenditures to date (federal & local): \$ \_\_\_\_\_

**Target Dates (State Agreement):**

Contract Execution Date: \_\_\_\_\_ Contract Expiration Date: \_\_\_\_\_  
 Date Deliverables Submitted: \_\_\_\_\_ Closeout Requested Date: \_\_\_\_\_

Describe Milestones achieved during this quarter:  
 \_\_\_\_\_

Project Proceeding on Schedule?  Yes  No (If No, Describe under Issues below)

Percentage of Milestones completed to Date: \_\_\_\_\_%

Describe Activities - Milestones completed this quarter only:  
 \_\_\_\_\_

**Schedule of the Milestones-Activities:**

<u>Milestone</u>	<u>Dates (estimated)</u>
<u>State Contracting</u>	_____
_____	_____
_____	_____
_____	_____
<u>Closeout Compliance</u>	_____
<u>Estimated Project Completion Date:</u>	

**Issues** or circumstances affecting completion date, milestones, scope of work, and/or cost:

Cost Status:  Cost Unchanged  Under Budget  Over Budget

Cost / Financial Comments:  
 \_\_\_\_\_

*NOTE: Events may occur between quarterly reports, which have significant impact upon your project(s), such as anticipated overruns, changes in scope of work, extensions. Contact the Division as soon as these conditions are known, otherwise you could be non-compliant with your sub-grant award.*

Sub-Recipient Contract Representative (POC): \_\_\_\_\_

Signature: \_\_\_\_\_ Phone: \_\_\_\_\_

*~ To be completed by Florida Division of Emergency Management Project Manager ~*

Project Manager Statement:  No Action Required, OR

Action Required: \_\_\_\_\_

PM Percentage of Activates competed per PM Review QR Milestones Spreadsheet: \_\_\_\_\_%

Date Reviewed: \_\_\_\_\_ Reviewer: \_\_\_\_\_ Project Manager

**Exhibit F: Task Order**

Task Order \_\_\_\_\_

**PROFESSIONAL SERVICES FOR KEY WEST WATERSHED MANAGEMENT PLAN**

This TASK ORDER \_\_\_\_\_ is issued under the terms and conditions of this PROFESSIONAL SERVICES FOR KEY WEST WATERSHED MANAGEMENT PLAN ("AGREEMENT") between the City of Key West ("CITY") and \_\_\_\_\_. ("CONSULTANT").

**A. SCOPE OF SERVICES**

Specific services which the CONSULTANT agrees to furnish are summarized on the attached statement entitled TASK ORDER \_\_\_\_\_ "SCOPE OF SERVICES." The "Scope of Services" defines the work effort anticipated for this Task Order.

**B. TIME OF COMPLETION**

Work under this Task Order will begin immediately following acceptance and be completed expeditiously subject to coordination with the City of Key West staff.

**C. COMPENSATION**

Compensation for the labor portions of TASK ORDER \_\_\_\_\_, will be on a lump sum fee basis as stipulated in Article 2, Paragraph 2.1 of the AGREEMENT. Compensation for all expenses will be on a Cost Reimbursable-Per Diem basis as stipulated in Article 2, Paragraph 2.2 of the AGREEMENT. The estimated compensation is shown on the attached statement entitled TASK ORDER \_\_\_\_\_ COMPENSATION.

**D. ACCEPTANCE**

By signature, the parties each accept the provisions of this TASK ORDER \_\_\_\_\_ and authorize the CONSULTANT to proceed at the direction of the CITY's representative in accordance with the "SCOPE OF SERVICES." Start date for this project will be no later than two (2) days after execution of this authorization.

For \_\_\_\_\_

For CITY OF KEY WEST

\_\_\_\_\_  
Name  
Title

\_\_\_\_\_  
Albert Childress  
City Manager  
  
Dated the \_\_\_\_ day of \_\_\_\_\_, 2023

ATTEST

: \_\_\_\_\_

Task order: \_\_\_\_\_

## PROFESSIONAL SERVICES FOR KEY WEST WATERSHED MANAGEMENT PLAN

### SCOPE OF SERVICES

#### A) Key West Watershed Master Plan

**Task 1** of the WMP is to create a preliminary scope of work, initial flood modeling and submission of a draft WMP to CRS officials for approval. FDEM Grant Agreement, “Attachment A - Scope of Work and Budget” for specific tasks (Exhibit E).

Flood modeling should consider evaluations of the watershed’s runoff response from design storms under current and predicted future conditions and assessments of the impacts of sea level rise and climate change. Preliminary modeling should include 10-, 25-, & 100-year storm events. This initial scope of work and WMP draft should include preliminary modeling of the 10-, 25-, & 100-year storm events, an inventory of the ground characteristics and data availability, existing regulations and plans in place, a description of vulnerable areas or areas of interest, a list of potential solutions, and a brief description of future actions plans.

**Task 2** of the WMP is to submit the Final WMP & CRS approval. After receiving feedback and approval of Task 1 from FDEM and CRS officials, the consultant will finalize the flood modeling process and complete the WMP. FDEM Grant Agreement, “Attachment A - Scope of Work and Budget” for specific tasks (Exhibit E).

At a minimum, the modeling and WMP must include 10-, 25-, & 100-year storm events – or model sea level rise – to receive credit through CRS element 452.b. The consultant will submit the final WMP and CRS forms for the City to submit to FDEM and CRS officials.

One of the foundational concepts of FEMA’s CRS program and Section 380.093, F.S. is to assess the flood risk of a community using best available tools, data, and methodologies. The larger goal of both programs is to capture multiple types of weather-related scenarios to project and model how various flood risks would affect the community. This project approach document outlines a methodology for evaluating the potential for flood exposure through the creation of a CRS program compliant watershed management plan. To align the CRS Water Management Plan (WMP) project’s modeling effort with Section 380.093, F.S. requirements for vulnerability assessments for, which the City will be undertaking contemporaneous with this effort, the approach for this assessment will leverage the functionality within the best available GIS and other modeling software to:

- 1) Map potential future regular tidal inundation from sea level rise using a modified bathtub approach that accounts for local and regional tidal variability and is used by the NOAA Office for Coastal Management (<https://coast.noaa.gov/data/digitalcoast/pdf/slr-inundation-methods.pdf>),
- 2) Map potential high tide flooding based on NOAA’s Coastal High Tide Flooding methodology (<https://coast.noaa.gov/data/digitalcoast/pdf/slr-high-tide-flooding.pdf>),

- 3) Map potential storm surge events using a combination of presently available data from both NOAA and FEMA and leverage readily available software methodologies to project multiple sea-level-adjusted designed storm events (particularly the 25-, 50-, 100- and 500-year events), and
- 4) Map potential sea-level adjusted rainfall using methodologies and tools designed to model various rainfall events.

To meet both the requirements of Section 380.093, F.S. and the requirements for a Watershed Management Plan within the CRS program, an effort will build upon the tidal inundation projected for the 2017 NOAA intermediate-low and intermediate high sea level rise projections and include the planning horizons for the years 2040, 2070 and 2100. Local tidal variability reported from the closest or regionally significant NOAA tide gauge can be employed using NOAA’s VDATUM utility (<https://vdatum.noaa.gov/>).

All four avenues for assessing flood risk, briefly outlined above, will be included in a spatiotemporal (geographic location and historic records/future projections) analysis to determine what key assets, areas, and infrastructure within a community are vulnerable to various climate-induced stressors and when that vulnerability may appear along the planning horizon timeline.

Tide Event	Rainfall Events								
	24hr Duration				72hr Duration				
	Rainfall Recurrence (Years)				Rainfall Recurrence (Years)				
	2	10	25	100	2	10	25	100	
High tide	1	1	1	1	1	1	1	1	
2040IH	1	1	1	1	1	1	1	1	
2070IH	1	1	1	1	1	1	1	1	
2100 IH	1	1	1	1	1	1	1	1	
2040IH + Surge	1	1	1	1	1	1	1	1	
2070IH + Surge	1	1	1	1	1	1	1	1	
2100IH + Surge	1	1	1	1	1	1	1	1	
<b>Total Scenarios = 56</b>									

1. Flood modeling and future condition projections
  - a. High tide flooding - Identification of areas flooded by high tide at a current, baseline condition and potential future flood risk: [slr-high-tide-flooding.pdf \(noaa.gov\)](#)
    - i. NOAA Intermediate Low
    - ii. NOAA Intermediate High

- b. Sea level rise – Utilization of the NOAA 2017 report to model potential sea level rise tidal inundation for the years 2040, 2070 and 2100.
  - i. NOAA Intermediate Low
  - ii. NOAA Intermediate High
- c. Storm Surge – Identification of sea-level adjusted storm surge zones for at least the 100-year and the NOAA 2017 intermediate high sea level rise projection up to 2100.
- d. Rainfall – Identification of rainfall induced flooding for multiple storm events and durations through one of the following methods:
  - i. Utilizing and Interconnected Channel and Pond Routing (ICPR) hydraulic model to assess flood risk to key assets, areas and infrastructure within the modeled area of approximately 3,000 acres of developed City property, along with necessary waterways encompassing additional land area. Multiple sea-level-adjusted design storm events (25, 50, 100, 500-yr) will be analyzed. Per CRS requirements, tidal flood inundation will be projected for NOAA intermediate-low and intermediate high sea level rise and include planning horizons for the years 2040, 2070, and 2100 for the modeled area.

**B) Completed Work**

All final deliverables will be ADA compliant under Section 508 of the Rehabilitation Act of 1973 and formatted to meet the CITY’s requirements. The consultant is expected to provide a preliminary draft and a complete final draft, and to incorporate a minimum of two rounds of revisions by the team prior to finalization and distribution. The consultant is expected to give one presentation in person to the City Commission prior to finalization and distribution. The consultant is expected to share final data and models with the City’s Vulnerability Assessment consultant to feed into the Key West Climate Adaptation Plan.

**C) General Administration and Reporting:**

The consultant will assist the City with compliance with FDEM Reporting.

**D) Schedule and Due Dates**

The following schedule provided is in compliance with grant document deliverable dates.

**E) Compensation**

<b>Grant Task #</b>	<b>FDEM Grant Task Name</b>	<b>Payment</b>
<b>1</b>	<b>Create Preliminary Project Plan based on Initial Flood Modeling, and Submit Draft WMP</b>	<b>\$102,225.00</b>
<b>2</b>	<b>Revise Draft WMP and Submit Completed WMP</b>	<b>\$82,593.75</b>

# Exhibit G: Example of Liability Insurance



## CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

**THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.**

**IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. IF SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).**

<b>PRODUCER</b>	<b>CONTACT NAME:</b> PHONE (A/C, No, Ext): _____ FAX (A/C, No): _____ E-MAIL ADDRESS: _____ _____														
<b>INSURED</b>  CEI Professional Sample	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 80%; text-align: center;"><b>INSURER(S) AFFORDING COVERAGE</b></td> <td style="width: 20%; text-align: center;"><b>NAIC #</b></td> </tr> <tr> <td><b>INSURER A:</b></td> <td></td> </tr> <tr> <td><b>INSURER B:</b></td> <td></td> </tr> <tr> <td><b>INSURER C:</b></td> <td></td> </tr> <tr> <td><b>INSURER D:</b></td> <td></td> </tr> <tr> <td><b>INSURER E:</b></td> <td></td> </tr> <tr> <td><b>INSURER F:</b></td> <td></td> </tr> </table>	<b>INSURER(S) AFFORDING COVERAGE</b>	<b>NAIC #</b>	<b>INSURER A:</b>		<b>INSURER B:</b>		<b>INSURER C:</b>		<b>INSURER D:</b>		<b>INSURER E:</b>		<b>INSURER F:</b>	
<b>INSURER(S) AFFORDING COVERAGE</b>	<b>NAIC #</b>														
<b>INSURER A:</b>															
<b>INSURER B:</b>															
<b>INSURER C:</b>															
<b>INSURER D:</b>															
<b>INSURER E:</b>															
<b>INSURER F:</b>															

**COVERAGES    CERTIFICATE NUMBER:    REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER: _____	X	X				EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ Excluded PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ PRODUCTS - COM/OP AGG \$ Self Insured Retention \$ 100,000
A	<b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY <input checked="" type="checkbox"/> Comp <input checked="" type="checkbox"/> Coll	X	X				COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ Comp / Coll Deductible \$ 1,000
A	<input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$ _____						EACH OCCURRENCE \$ AGGREGATE \$ \$
A	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below Professional Liability	Y/N N	N/A	X			<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000 Per Claim \$ 1,000,000 Aggregate \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

<b>CERTIFICATE HOLDER</b>  City of Key West P.O. Box 1409 Key West, FL 33041-1409	<b>CANCELLATION</b>  SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE
---	--

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**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**ADDITIONAL INSURED - OWNERS, LESSEES OR  
CONTRACTORS - SCHEDULED PERSON OR  
ORGANIZATION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
SCHEDULE

Name Of Additional Insured Person(s) Or Organizations):	Location(s) Of Covered Operations
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

**A. Section II - Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

**B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:**

This insurance does not apply to "bodily injury" or "property damage" occurring after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

POLICY NUMBER:

COMMERCIAL GENERAL LIABILITY  
CG 20 3707 04

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## ADDITIONAL INSURED - OWNERS, LESSEES OR CONTRACTORS - COMPLETED OPERATIONS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):	Location And Description Of Completed Operations

Information required to complete this Schedule if not shown above will be shown in the Declarations.

**Section II - Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" at the location designated and described in the schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".



POLICYNUMBER:

COMMERCIAL GENERAL LIABILITY  
CG 2404 0509

## WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

### SCHEDULE

**Name Of Person Or Organization:**

**Information required to complete this Schedule, if not shown above, will be shown in the Declaration.s**

The following is added to Paragraph 8. **Transfer Of Rights Of Recovery Against Others To Us** of Section IV - Conditions:

We waive any right of recovery we may have against the person or organization shown in the Schedule above because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard". This waiver applies only to the person or organization shown in the Schedule above.



**WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT**

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

Schedule

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

**(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)**

Endorsement  
Insured

Effective Policy No.

Endorsement No.  
Premium

Insurance Company

Countersigned by \_\_\_ \_

WC 000313  
(Ed. 4-84)

## APPENDIX B – SUPPORTING MATERIAL

Minimum Criteria Required for a Creditable WMP

A) 2017 CRS Coordinator’s Manual

[https://www.fema.gov/sites/default/files/documents/fema\\_community-rating-system\\_coordinatorsmanual\\_2017.pdf](https://www.fema.gov/sites/default/files/documents/fema_community-rating-system_coordinatorsmanual_2017.pdf)

B) 2021 Addendum to the Coordinator’s Manual

[https://www.fema.gov/sites/default/files/documents/fema\\_community-rating-system\\_coordinatormanual\\_addendum-2021.pdf](https://www.fema.gov/sites/default/files/documents/fema_community-rating-system_coordinatormanual_addendum-2021.pdf)